# Explanatory Notes Relating to the Income Tax Act and Related Legislation

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## Preface

These explanatory notes describe proposed amendments to the *Income Tax Act* and related legislation. These explanatory notes describe these proposed amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors.

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These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

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# Part 1

## Amendments to the Income Tax Act and Related Regulations

## Income Tax Act

**Clause 2**

**Additions to Clause 60(*l*)(v)(B.2) for 2015**

ITA
60.022

New section 60.022 of the Act provides rules relating to the reduction, for 2015, in the minimum withdrawal amounts required under registered retirement income funds (RRIFs), variable benefit money purchase registered pension plans (RPPs) and pooled registered pension plans (PRPPs). This reduction is the result of the reduction, starting in 2015, to the prescribed factors in subsections 7308(3) and (4) of the *Income Tax Regulations* that apply for the purposes of determining the minimum amount that an annuitant under a RRIF is required to withdraw each year from the fund. The prescribed factors also apply for the purpose of determining the minimum amount in connection with benefits under a money purchase RPP and a PRPP. For further information, see the commentary on subsections 7308(3) and (4).

ITA
60.022(1)

New subsection 60.022(1) of the Act introduces a special reading of clause 60(*l*)(v)(B.2) for 2015. Paragraph 60(*l*) allows an individual to claim a deduction for qualifying payments to a registered retirement savings plan, RRIF, RPP or PRPP to offset certain income inclusions, up to the limit set out in subparagraph 60(*l*)(v). Existing clause 60(*l*)(v)(B.2) includes for this purpose certain amounts received from a RRIF. Although payments to a RRIF by an annuitant are not generally permitted, subparagraph 146.3(2)(*f*)(iii) allows such payments to the extent that they are described in subparagraph 60(*l*)(v).

New subsection 60.022(1) provides that, for 2015, clause 60(*l*)(v)(B.2) is to be read as allowing the individual's eligible RRIF withdrawal amounts, eligible variable benefit withdrawal amounts and eligible PRPP withdrawal amounts for the year within the meanings assigned by new subsections 60.022(2), (3) and (4) to be included in the amount determined under that clause. For further information, refer to the commentary on new subsections 60.022(2) to (4).

ITA
60.022(2)

New subsection 60.022(2) of the Act describes an individual's eligible RRIF withdrawal amount for a taxation year in respect of a RRIF under which the individual is the annuitant at the beginning of the taxation year. This subsection is relevant for the 2015 taxation year.

In most cases, the individual's eligible RRIF withdrawal amount is determined, under paragraph 60.022(2)(*a*), by the formula

$$A - B$$

Variable A is the lesser of two amounts. The first amount is the total of all amounts received in 2015 out of or under the RRIF (other than as a transfer) and included, because of subsection 146.3(5), in computing the individual's income. The second amount is the minimum amount for the RRIF for 2015, determined using the prescribed factors under subsections 7308(3) or (4), as applicable, of the Regulations as they read on December 31, 2014.

Variable B is the minimum amount under the RRIF for 2015, determined using the lowered prescribed factors under subsections 7308(3) or (4) of the Regulations, as applicable, for the 2015 year.

ITA
60.022(3)

New subsection 60.022(3) of the Act describes an individual's eligible variable benefit withdrawal amount in respect of an account of the individual under a money purchase provision of an RPP. This subsection is relevant for the 2015 taxation year.

An individual's eligible variable benefit withdrawal amount is determined by the formula

$$A - B - C$$

Variable A is the lesser of two amounts. The first amount is, in general terms, the total of all variable benefit payments received in 2015 from the account and included, because of paragraph 56(1)(*a*), in computing the individual's income. The second amount is the minimum amount for the account for 2015, determined using the factor designated under subsection 7308(4) of the Regulations as they read on December 31, 2014.

Variable B is the minimum amount for 2015, determined using the lowered factor under subsection 7308(4) for the 2015 year.

Variable C is the portion of the individual's excess variable benefit payments under the money purchase provision that have previously been recontributed and designated for this purpose under new subsection 8506(12) of the Regulations. Variable C in effect prevents the taxpayer from re-contributing an excess variable benefit payment to an RRSP, RRIF or PRPP to the extent that the taxpayer has already re-contributed the amount to the money purchase account.

ITA
60.022(4)

New subsection 60.022(4) of the Act describes an individual's eligible PRPP withdrawal amount in respect of an account of the individual under a PRPP. This subsection is relevant for the 2015 taxation year.

An individual's eligible PRPP withdrawal amount is determined by the formula

$$A - B$$

Variable A is the lesser of two amounts. The first amount is, in general terms, the total of all amounts distributed from the account in 2015 and included, because of subsection 147.5(13), in computing the individual's income. The second amount is the minimum amount for the account for 2015, determined using the factor designated under subsection 7308(4) of the Regulations as they read on December 31, 2014.

Variable B is the minimum amount for 2015, determined using the lowered factor under subsection 7308(4) for the 2015 year.

ITA
60.022(5)

New subsection 60.022(5) of the Act provides that certain expressions used in new section 60.022 have the meanings assigned elsewhere in the Act and Regulations. This subsection is relevant for the 2015 taxation year.

The expression "money purchase provision" is defined in subsection 147.1(1). It generally means terms of a pension plan under which an account is maintained for a plan member and the only benefits payable in respect of the member are those that can be provided by the amount in the member's account.

The expression "retirement benefits" is defined in subsection 8500(1) of the Regulations as pension plan benefits that are payable to an individual on a periodic basis. Section 8506 of the Regulations describes the retirement benefits that may be provided under a money purchase provision of an RPP.

The “minimum amount” for a member’s account under a money purchase provision of an RPP for a year is determined under subsection 8506(5) of the Regulations. Generally, it is the balance in the member’s account at the beginning of the year multiplied by an age-based factor set out in the Regulations.

The “minimum amount” for a member’s account under a PRPP for a year is the amount that would be the minimum amount for the year under subsection 8506(5) of the Regulations if the member’s account under the PRPP were an account under a money purchase provision of an RPP.

**Clause 3**

**Canadian Forces Members and Veterans Amounts**

ITA
81(1)(*d.1*)

Paragraph 81(1)(*d.1*) specifically excludes from the computation of a taxpayer’s income certain payments made under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*.

Paragraph 81(1)(*d.1*) is amended to provide that payments received on account of the new critical injury benefit and the family caregiver relief benefit under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* are exempt from income tax.

These amendments apply to the 2015 and subsequent taxation years.

**Clause 4**

**Taxable Dividends**

ITA
82(1)(*b*)

In general terms, subsection 82(1) of the Act requires an individual who receives a taxable dividend from a corporation resident in Canada to include in income an amount equal to the total of the dividend received and a gross-up amount. The individual is subject to tax on the amount and is then entitled to claim a dividend tax credit in respect of the amount under section 121.

In the case of a taxable dividend other than an eligible dividend (a non-eligible dividend), paragraph 82(1)(*b*) requires an individual who receives the dividend to include in income, in addition to the dividend received, a gross-up amount equal to 18% of the dividend. Paragraph 82(1)(*b*) is amended to change the gross-up to 17% of the dividend for the 2016 and 2017 taxation years, 16% for the 2018 taxation year and 15% for taxation years after 2018.

This amendment is made in conjunction with the amendment to paragraph 121(*a*) to adjust the corresponding dividend tax credit for non-eligible dividends and with the amendment to subsection 125(1.1) that increases the small business deduction rate.

This amendment applies to the 2016 and subsequent taxation years.

**Clause 5**

**Beneficiaries, Taxable QFFP Taxable Capital Gain**

ITA
104(21.21) and (21.22)

Subsection 104(21.2) of the Act sets out the rules for establishing those net taxable capital gains of a personal trust that have been designated by a trust in respect of its beneficiaries that can be attributed to specific types of properties disposed of by the trust for the purpose of section 110.6 of the Act. This attribution permits the beneficiary to claim the lifetime capital gains exemption under section 110.6 for dispositions by a personal trust of qualified farm or fishing property, or a share of a qualified small business corporation of the trust.

New subsections 104(21.21) and (21.22) are added consequential on the introduction of subsection 110.6(2.2), which provides an additional capital gains deduction for qualified farm or fishing property disposed of on or after April 21, 2015. In determining an individual's entitlement to the additional deduction, the individual must establish the extent to which the individual's taxable capital gains arose from dispositions of qualified farm or fishing property on or after April 21, 2015. New subsections 104(21.21) and (21.22) assist individuals in respect of whom personal trusts have designated amounts in respect of net taxable capital gains of the trust from dispositions of qualified farm or fishing property of the trust.

New subsection 104(21.21) provides a formula that prorates (for the purposes of section 110.6, which sets out rules for calculating the lifetime capital gains exemption) the amount of a trust beneficiary's taxable capital gain from qualified farm or fishing property ("QFFP taxable capital gain") between dispositions of qualified farm or fishing property before and on or after April 21, 2015. In particular, for the beneficiary's taxation year in which the designation year of the trust ends, where

- clause 104(21.2)(*b*)(ii)(A) applies for the purpose of section 110.6 to deem the trust beneficiary to have a QFFP taxable capital gain, and
- where the trust has made the required designation under new subsection 104(21.22),

the beneficiary is deemed for the purpose of new subsection 110.6(2.2) to have a QFFP taxable capital gain on or after April 21, 2015. Pursuant to the formula in 104(21.21), the QFFP taxable capital gain realized on or after April 21, 2015 will be equal to that proportion of the QFFP taxable capital gains for the beneficiary's taxation year in which the designation year of the trust ends that the beneficiary's net post-April 21, 2015 QFFP taxable capital gains for the year is of the beneficiary's net QFFP taxable capital gains for the year.

New subsection 104(21.22) provides that a trust is to determine and to designate, in its return of income under this part for a designation year of the trust, the amount that is, under subsection 104(21.21), determined to be the beneficiary's taxable capital gain from the disposition of qualified farm of fishing property of the beneficiary.

New subsections 104(21.21) and (21.22) apply in respect of trust taxation years that end on or after April 21, 2015.

**Clause 6**

**Credits – Home Renovation**

ITA
108(1.1)

Subsection 108(1.1) of the Act provides that a "qualifying expenditure" (as defined by subsection 118.04(1) of the Act for the purposes of the Home Renovation Tax Credit), made by a beneficiary of a testamentary trust in respect of a home renovation will not be considered a contribution to the trust. Subsection 108(1) defines a testamentary trust as being a trust that arises on and as a consequence of the death of an individual, except where certain events occur that cause the trust to be re-characterized as an *inter-vivos* trust. One of these exceptions is where a contribution is made to an otherwise testamentary trust. Subsection 108(1.1) is amended to provide that a "qualifying expenditure" (as defined by new subsection 118.041(1) of the Act for the purposes of the Home Accessibility Tax Credit), made by a beneficiary of a testamentary trust in respect of a home renovation will not be considered a contribution to the trust.

For more information about the definition "qualifying expenditure", please refer to the notes for subsection 118.041(1).

This amendment applies to the 2016 and subsequent taxation years.

**Clause 7**

**Additional Capital Gains Deduction — Qualified Farm or Fishing Property**

ITA
110.6(2.2)

Section 110.6 sets out the rules for calculating an individual's entitlement to the lifetime capital gains exemption. Subsection 110.6(2) provides a deduction in computing the taxable income of a taxpayer in respect of taxable capital gains from the disposition of qualified farm or fishing property.

New subsection 110.6(2.2) of the Act implements the effective increase to the lifetime capital gains exemption limit, to $1,000,000 (representing $500,000 of taxable capital gains), for dispositions of qualified farm or fishing property on or after April 21, 2015. New subsection (2.2) provides an additional deduction from income in respect of capital gains realized on the disposition of qualified farm or fishing property to the deduction that can be claimed under subsection 110.6(2).

New subsection (2.2) specifically provides that, in computing the taxable income of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of qualified farm or fishing property in the year or in a preceding year (provided the disposition occurs on or after April 21, 2015), there may be deducted such amount as the individual may claim not exceeding the least of:

- the amount necessary to increase the base lifetime capital gains exemption (in subsection (2)) to $1,000,000, which is expressed as the amount by which $500,000 exceeds the total of
    - the indexed lifetime capital gains exemption limit for qualified farm or fishing property in subsection (2), and
    - the total of all amounts previously deducted by the individual under new subsection (2.2) in a preceding taxation year that ended after 2014,
- the amount by which the individual's cumulative gains limit at the end of the year exceeds the amount deducted by the individual under the lifetime capital gains exemption (determined without reference to the additional deduction available under new subsection (2.2) for qualified farm or fishing property) in computing the individual's taxable income for the taxation year,
- the amount, if any, by which the individual's annual gains limit for the year exceeds the amount deducted by the individual under the lifetime capital gains exemption (determined without reference to the additional deduction available under new subsection (2.2) for qualified farm or fishing property) in computing the individual's taxable income for the taxation year, and
- the individual's net taxable capital gains for the year in respect of qualified farm or fishing property (disposed of by the individual on or after April 21, 2015).

The base lifetime capital gains exemption for farm or fishing property in subsection (2) is indexed to inflation. As it increases, the maximum amount of this additional deduction will decrease until the amount of the base lifetime capital gains exemption exceeds $1,000,000, at which point no additional amount will be deductible under subsection (2).

New subsection 110.6(2.2) applies to taxation years that end after April 20, 2015.

**Additional Deduction – Ordering Rule**

ITA
110.6(2.3)

Deductions claimed in previous years by an individual under the lifetime capital gains exemption in section 110.6 of the Act (including under new subsection 110.6(2.2)) are taken into account in determining the individual's remaining entitlement to the capital gains deduction provided under subsections 110.6(2) and (2.1).

New subsection 110.6(2.3) requires that an individual exhaust the deductions available under subsections (2) and (2.1) before they can claim the additional deduction available under new subsection (2.2). This ordering rule ensures that an individual will not reduce their ability to claim a deduction under subsections 110.6(2) and (2.1) due to a deduction claimed under subsection (2.2).

New subsection 110.6(2.3) applies to taxation years that end after April 20, 2015.

**Maximum Capital Gains Deduction**

ITA
110.6(4)

Subsection 110.6(4) of the Act provides the overall lifetime capital gains exemption limit for an individual. The subsection adopts the limit provided in paragraph 110.6(2)(a). As a consequence, notwithstanding any amounts computed as capital gains deductions under subsections 110.6(2) and (2.1), an individual is limited to an overall lifetime limit of $400,000 (indexed to inflation under subsection 117.1(1)) of deductions in respect of taxable capital gains.

Paragraph 110.6(4) is amended consequential on the introduction of an additional deduction in subsection 110.6(2.2) to provide that an individual will be limited to the amount determined by the formula in 110.6(2)(a) plus the amount that may be deducted under subsection (2.2).

The amendment to subsection 110.6(4) applies to taxation years that end after April 20, 2015.

**Deemed Resident in Canada**

ITA
110.6(5)

Subsection 110.6(5) of the Act provides that, where an individual is resident in Canada at any time in a particular taxation year, the individual is deemed to be resident in Canada throughout the particular year if the individual is resident in Canada throughout either the immediately preceding taxation year or the immediately following taxation year. Subsection 110.6(5) applies only for the purposes of subsections 110.6(2) and (2.1).

Subsection 110.6(5) is amended, consequential on the introduction of subsection 110.6(2.2), to add a reference to that subsection.

The amendment to subsection 110.6(5) applies to taxation years that end after April 20, 2015.

**Failure to Report Capital Gain**

ITA
110.6(6)

Subsection 110.6(6) of the Act denies a capital gains exemption for certain unreported net taxable capital gains notwithstanding that an amount that could have been claimed as a capital gains exemption under subsections 110.6(2) and (2.1).

Subsection 110.6(5) is amended, consequential on the introduction of subsection 110.6(2.2), to add a reference to that subsection.

The amendment to subsection 110.6(6) applies to taxation years that end after April 20, 2015.

**Deduction Not Permitted**

ITA
110.6(7)

Subsection 110.6(7) of the Act is an anti-avoidance rule that prevents, notwithstanding subsections 110.6(2) and (2.1), the conversion of certain corporate capital gains that are taxable into exempt capital gains of an individual.

Subsection 110.6(7) is amended, consequential on the introduction of subsection 110.6(2.2), to add a reference to that subsection.

The amendment to subsection 110.6(7) applies to taxation years that end after April 20, 2015.

**Deduction Not Permitted**

ITA
110.6(8)

Subsection 110.6(8) of the Act provides that, notwithstanding subsections 110.6(2) and (2.1), an individual may not claim the capital gains exemption with respect to a capital gain realized on a disposition of property if it is reasonable to conclude that a significant portion of the capital gain is attributable to the fact that dividend payments on a share (other than a prescribed share) have either not been made or have been deferred.

Subsection 110.6(8) is amended, consequential on the introduction of subsection 110.6(2.2), to add a reference to that subsection.

The amendment to subsection 110.6(8) applies to taxation years that end after April 20, 2015.

**Clause 8**

**Home Accessibility Tax Credit**

ITA
118.041

New section 118.041 of the Act introduces the Home Accessibility Tax Credit and provides a non-refundable tax credit that may be claimed by seniors, persons with disabilities and other eligible individuals in respect of qualifying expenditures directly attributable to qualifying renovations made to an eligible dwelling.

These amendments apply to the 2016 and subsequent taxation years.

**Definitions**

ITA
118.041(1)

New subsection 118.041(1) of the Act sets out definitions that apply for the purpose of the Home Accessibility Tax Credit.

**“eligible dwelling”**

An “eligible dwelling” of an individual generally means a housing unit located in Canada where the individual owns, whether jointly with another person or otherwise,

(a) the housing unit; or

(b) a share of the capital stock of a co-operative housing corporation that was acquired for the sole purpose of acquiring the right to inhabit the housing unit, which is owned by the corporation.

A trust under which the individual is a beneficiary may also own the housing unit, or the share of the capital stock of a co-operative housing corporation, as the case may be.

To qualify for the Home Accessibility Tax Credit, the housing unit owned by an individual must be ordinarily inhabited, or be reasonably expected to be ordinarily inhabited, at any time during the taxation year by

- the individual (if the individual is a qualifying individual), or
- the individual and a qualifying individual (if the individual is an eligible individual in respect of the qualifying individual and if the qualifying individual does not, throughout the taxation year, own and ordinarily inhabit another housing unit in Canada).

An eligible dwelling includes the land subjacent to the housing unit and up to 1/2 hectare of contiguous land (or such greater area of land that the individual establishes is necessary for the use and enjoyment of the housing unit as a residence).

**“eligible individual”**

An “eligible individual” in respect of a “qualifying individual” (as defined in this subsection) is eligible to claim the Home Accessibility Tax Credit. In general terms, an “eligible individual” is one of the following (provided that all other conditions, set out below, are met):

- the spouse or common-law partner of the qualifying individual;
- a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew of the qualifying individual; or
- a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew of the qualifying individual’s spouse or common-law partner.

More specifically, an “eligible individual” will be an individual who has claimed the spouse or common-law partner amount, eligible dependant amount (also known as the “equivalent to spouse amount”), caregiver amount or infirm dependant amount for the qualifying individual for the taxation year. In addition, an eligible individual, in respect of a qualifying individual, will include an individual who could have claimed such an amount for the taxation year if:

- in the case of the spouse or common-law partner amount, the qualifying individual had no income for the particular taxation year;
- in the case of the eligible dependent amount, the eligible individual was not married or in a common-law partnership and the qualifying individual had no income in the particular taxation year; and
- in the case of the infirm dependent and caregiver amounts, if the qualifying individual had been 18 years of age or older and had no income in the particular taxation year, and for the infirm dependent amount, if the qualifying individual were dependant by reason of infirmity.

**“individual”**

For the purposes of the rules relating to the Home Accessibility Tax Credit, an “individual” does not include a trust.

**“qualifying expenditure”**

A "qualifying expenditure" of an individual means an outlay or expense that is made or incurred during a taxation year, that is directly attributable to a qualifying renovation of an eligible dwelling of a qualifying individual or an eligible individual in respect of a qualifying individual.

A qualifying expenditure includes the cost of goods acquired or services received during the year and includes the cost of permits required for the qualifying renovation, as well outlays or expenses for the rental of equipment used in the course of the qualifying renovation.

Certain expenditures do not qualify for the Home Accessibility Tax Credit under this definition, including expenditures

(a) to acquire a property that can be used independently of the qualifying renovation;
(b) for annual, recurring or routine repairs or maintenance;
(c) to acquire a household appliance;
(d) to acquire electronic home-entertainment device;
(e) that are costs for housekeeping, security monitoring, gardening, outdoor maintenance or similar services;
(f) that are financing costs;
(g) incurred primarily for the purpose of increasing or maintaining the value of the eligible dwelling;
(h) incurred for the purpose of gaining or producing income from a business or property;
(i) for goods or services provided by a person not dealing at arm's length with the individual, unless that person is registered for the purposes of the Goods and Services Tax; and
(j) that can reasonably be considered to have been reimbursed, other than government assistance amounts.

In this regard, furnaces and other heating systems are not considered to be household appliances.

**"qualifying individual"**

A "qualifying individual" means an individual

- who is 65 years of age or older by the end of a taxation year, or
- in respect of whom an amount is deductible under subsection 118.3(1) of the Act (generally referred to as the "disability tax credit") in computing tax payable for the year, or would be so entitled if the restriction for attendant care in paragraph 118.3(1)(*c*) of the Act were disregarded.

**"qualifying renovation"**

A "qualifying renovation" means a renovation or alteration of an eligible dwelling of a qualifying individual or an eligible individual in respect of a qualifying individual. The renovation or alteration must be of an enduring nature, integral to the eligible dwelling and

- undertaken to enable the qualifying individual to gain access to, or to be mobile or functional within, the eligible dwelling, or
- undertaken to reduce the risk of harm to the qualifying individual within the eligible dwelling or in gaining access to the dwelling.

**Qualifying Expenditure Rules**

ITA
118.041(2)

New subsection 118.041(2) of the Act sets out certain rules that apply for the purpose of the Home Accessibility Tax Credit.

New paragraph 118.041(2)(*a*) provides for cases where an eligible dwelling of a qualifying individual, or of an eligible individual in respect of a qualifying individual, is owned by a co-operative housing corporation, a condominium corporation or a similar entity (the "corporation"), instead of being owned by that individual directly. This paragraph ensures that an outlay or expense made or incurred by the corporation may qualify as a qualifying expenditure of a qualifying individual or an eligible individual, if the outlay or expense would have been a qualifying expenditure of the corporation if the corporation were an individual. The corporation must notify the qualifying individual or the eligible individual, in writing, of the individual's share of the expenditure.

New paragraph 118.041(2)(*b*) provides for a similar rule with respect to trusts, where an eligible dwelling of a qualifying individual, or of an eligible individual in respect of a qualifying individual, is owned by a trust instead of by the individual directly. This paragraph ensures that an outlay or expense made or incurred by a trust may qualify as a qualifying expenditure of a qualifying individual or an eligible individual, if the outlay or expense would have been a qualifying expenditure of the trust if the trust were a natural person. The trust must notify the qualifying individual or the eligible individual, in writing, of the individual's share of the outlay or expense.

**Home Accessibility Tax Credit**

ITA
118.041(3)

New subsection 118.041(3) of the Act provides for the calculation of a non-refundable Home Accessibility Tax Credit. The credit is determined as 15% of the portion of qualifying expenditures to a maximum amount of $10,000.

**Interaction with Medical Expense Tax Credit**

ITA
118.041(4)

New subsection 118.041(4) of the Act provides that, notwithstanding paragraph 248(28)(*b*) of the Act, an outlay or expense made or incurred by an individual may qualify for both the Home Accessibility Tax Credit, under section 118.041 of the Act, and for the Medical Expense Tax Credit, under section 118.2 of the Act, if that outlay or expense would otherwise qualify for the purposes of those credits.

**Limits**

ITA
118.041(5)

New subsection 118.041(5) of the Act provides that if one or more qualifying individuals or eligible individuals make a claim in respect of an eligible dwelling, the total of all amounts claimed by the qualifying individual(s) and eligible individual(s) for the year in respect of the eligible dwelling must not exceed $10,000. More particularly, it provides that:

- the total amount of qualifying expenditures claimed by a qualifying individual, and all eligible individuals in respect of that qualifying individual, cannot exceed the maximum amount of $10,000; and
- where more than one qualifying individual ordinarily inhabits, or reasonably expects to ordinarily inhabit, an eligible dwelling, the total amount of qualifying expenditures that may be claimed by the qualifying individuals, or by eligible individuals in respect of those qualifying individuals, in respect of the eligible dwelling cannot exceed the maximum amount of $10,000.

If the amount that could otherwise be claimed by two or more individuals exceeds the limits set out above and the individuals cannot agree as to the amount each may claim, the Minister of National Revenue may fix the portions.

**Effect of Bankruptcy**

ITA
118.041(6)

New subsection 118.041(6) of the Act applies where an individual becomes bankrupt in a particular calendar year. It provides that, notwithstanding subsection 128(2) of the Act, any reference to the taxation year of the individual in subsection 118.041(5) is deemed to be a reference to the calendar year. Where an individual becomes bankrupt, subsection 128(2) divides the calendar year in which the bankruptcy occurs into two taxation years: one that runs from January 1 to the day before the bankruptcy; and a second that begins on the day of the bankruptcy and runs to December 31. The effect of subsection 118.041(6) is that the limits set out in subsection 118.041(5) will apply to the calendar year as a whole. The total of the amounts claimed in respect of the Home Accessibility Tax Credit for the two taxation years therefore cannot be greater than the amount that could be claimed in respect of the calendar year as a whole.

**In the Event of Death and Bankruptcy**

ITA
118.041(7)

New subsection 118.041(7) of the Act provides that if an individual, who is 64 years of age, dies during a calendar year in which the individual would otherwise have turned 65, that individual is deemed to have turned 65 years of age at the beginning of the calendar year for the purpose of determining eligibility for the Home Accessibility Tax Credit. Also, if an individual becomes a qualifying individual (as defined in subsection 118.041(1)) in a calendar year and that individual, or an eligible individual in respect of that qualifying individual, becomes bankrupt in that same year, that individual is deemed to have been a qualifying individual at the beginning of the calendar year for the purpose of determining eligibility for the Home Accessibility Tax Credit.

**Clause 9**

**Ordering of Credits**

ITA
118.92

Section 118.92 of the Act provides that the tax credits allowed in computing an individual’s tax payable for a taxation year are to be applied in a specific order. This section is amended to add references to new section 118.041 (the Home Accessibility Tax Credit).

This amendment applies to the 2016 and subsequent taxation years.

**Clause 10**

**Deduction for Taxable Dividends – Dividend Tax Credit**

ITA
121

In general terms, section 121 of the Act allows an individual who receives a taxable dividend from a corporation resident in Canada a deduction from the tax otherwise payable for the year (dividend tax credit) by the individual on the amount of the dividend that is included in the individual's income (which amount is determined under subsection 82(1)).

Paragraph 121(*a*) provides the dividend tax credit that applies to a taxable dividend other than an eligible dividend (non-eligible dividend) received by an individual. In respect of a non-eligible dividend, the dividend tax credit is currently equal to 13/18 of the gross-up amount of the dividend that is included in the individual's income under paragraph 82(1)(*b*). Paragraph 121(*a*) is amended to change the fraction to 21/29 for the 2016 taxation year, to 20/29 for the 2017 and 2018 taxation years and to 9/13 for taxation years that are after 2018.

This amendment is made in conjunction with the amendment to paragraph 82(1)(*b*) to adjust the gross-up amount of a non-eligible dividend that must be included in the income of an individual and with the amendment to subsection 125(1.1) that increases the small business deduction rate.

This amendment applies to the 2016 and subsequent taxation years.

**Clause 11**

**Small Business Deduction**

ITA
125

For the purpose of computing the small business deduction under section 125 of the Act, a corporation's small business deduction rate for a taxation year is determined under subsection 125(1.1). The current small business deduction rate of 17% is increased to 17.5% for 2016, to 18% for 2017, to 18.5% for 2018 and to 19% after 2018. The small business deduction rate is prorated for taxation years of corporations that overlap calendar years with different small business deduction rates.

This amendment is made in conjunction with the amendment to paragraph 82(1)(*b*) to adjust the gross-up amount of taxable dividends that are not eligible dividends that must be included in the income of an individual and with the amendment to paragraph 121(*a*) to adjust the dividend tax credit for such dividends.

This amendment applies to the 2016 and subsequent taxation years.

**Clause 12**

**Investment Tax Credit**

ITA
127

Section 127 of the Act permits deductions in computing tax payable in respect of logging taxes, political contributions and the investment tax credit.

**Definitions**

ITA
127(9)

Subsection 127(9) of the Act provides various definitions relevant for the purpose of calculating the investment tax credit of a taxpayer.

**“flow-through mining expenditure”**

The definition “flow-through mining expenditure” in subsection 127(9) defines the expenses (eligible expenses) that qualify for the 15% investment tax credit in respect of specified surface “grass-roots” mineral exploration. Under the existing definition, the credit is available only in respect of eligible expenses renounced under a flow-through share agreement made after March 2014 and before April 2015.

The definition is amended to include eligible expenses incurred by a corporation after March 2015 and before 2017, where the expenses are incurred under a flow-through share agreement entered into after March 2015 and before April 2016.

**Clause 13**

**Definitions**

ITA
135.1

Section 135.1 of the Act provides that an eligible member of an agricultural cooperative corporation may defer the inclusion in income of all or a portion of a payment made by the agricultural cooperative corporation, in the form of a tax deferred cooperative share, pursuant to an allocation in proportion to patronage. This deferral lasts until the disposition (or deemed disposition) of the share.

**Definitions**

ITA
135.1(1)

Subsection 135.1(1) of the Act defines a number of terms for the purposes of sections 135 and 135.1 of the Act.

**“Tax deferred cooperative share”**

A “Tax deferred cooperative share” is defined to mean a share that meets certain conditions, including that the share must be issued after 2005 and before 2016.

The definition is amended to include shares issued after 2005 and before 2021.

**Clause 14**

**Preferred-Rate Amount**

ITA
137(4.3)

Section 137 of the Act provides rules that apply to the taxation of credit unions. In general terms, credit unions can have access to the small business deduction under subsection 125(1) if they are Canadian-controlled private corporations.

Under subsection 137(3), a corporation that is a credit union throughout the year is permitted an additional deduction from its tax otherwise payable under Part I of the Act, in respect of its taxable income that is not eligible for the small business deduction in the year, subject to a specified limit. This additional deduction is computed by multiplying the corporation’s small business deduction rate for the year under subsection 125(1.1) by the amount, if any, by which the lesser of two amounts exceeds the amount in respect of which the corporation has claimed the small business deduction under subsection 125(1). One of these two amounts is the amount, if any, by which 4/3 of the corporation’s maximum cumulative reserve at the end of the year exceeds its preferred-rate amount at the end of the immediately preceding taxation year.

In general terms, paragraph 137(4.3)(*a*) provides that the preferred-rate amount of a credit union is its cumulative taxable income that was eligible for the small business deduction (including as a result of the additional deduction). To determine the preferred-rate amount of a credit union in a taxation year, the amount deducted by the credit union under section 125 in the year is multiplied by a factor that reflects the small business deduction rate for the year. The current multiplication factor is based on a small business deduction rate of 17%. The small business deduction rate of 17% is increased to 17.5% for 2016, to 18% for 2017, to 18.5% for 2018 and to 19% after 2018. Consequently, the multiplication factor used in paragraph 137(4.3)(*a*) to determine the preferred-rate amount of a credit union is changed to a factor that takes into account the changes to the small business deduction rate.

Paragraph 137(4.3)(*a*) is also simplified by presenting the computation of the preferred-rate amount of a corporation at the end of a taxation year as the formula A + B/C. Variable A is the corporation's preferred rate amount at the end of its immediately preceding year. Variable B is the amount deductible under section 125 from the tax for the year otherwise payable by the corporation under Part I of the Act. Variable C is the applicable small business deduction rate.

This amendment applies to the 2016 and subsequent taxation years.

**Clause 15**

**Exceptions**

ITA
146.3(1.3)

New subsection 146.3(1.3) of the Act provides that the unreduced minimum amount for 2015 – determined using the prescribed factors under subsections 7308(3) or (4), as the case may be, of the Regulations as they read on December 31, 2014 – continues to apply for the purposes of

- the spousal attribution rules;
- the exemption from withholding tax on RRIF withdrawals up to the minimum amount; and
- non-resident withholding taxes.

**Clause 16**

**Definitions**

ITA
146.4(1)

**"disability savings plan"**

Clause (*a*)(ii)(B.1) of the definition "disability savings plan" in subsection 146.4(1) of the Act allows, before 2017, a qualifying family member (generally a parent, spouse or common-law partner) of a beneficiary of a trust under a disability savings plan who is a qualifying person (as defined in subsection 146.1(1)) in relation to the beneficiary to become the holder of the disability savings plan of the beneficiary. Clause (*a*)(ii)(B.1) was introduced as a temporary measure in 2012 to allow a qualifying family member to establish a disability savings plan of a beneficiary in certain circumstances. Clause (*a*)(ii)(B.1) is amended to extend the measure to the end of 2018.

**Clause 17**

**Conditions Applicable to PRPPs**

ITA
147.5(3)(*b*)

Subsection 147.5(3) of the Act sets out the circumstances under which the registered status of a PRPP becomes revocable by the Minister of National Revenue (i.e., the PRPP becomes a revocable plan).

Under paragraph 147.5(3)(*b*), a PRPP becomes a revocable plan if it accepts a contribution in respect of a member after the year in which the member turns 71 years of age (other than an amount transferred to the PRPP on behalf of the member under one of the listed transfer provisions). The paragraph is amended to provide that a PRPP will not become a revocable plan if it accepts a contribution that is an eligible RRIF withdrawal amount, eligible variable benefit withdrawal amount or eligible PRPP withdrawal amount under clause 60(*l*)(v)(B.2), as that provision reads when subsection 60.022(1) applies. For further information, see the commentary on section 60.022.

**Clause 18**

**Definitions**

ITA
149.1(1)

"qualified donee"

Subparagraph (*a*)(v) of the definition "qualified donee" in subsection 149.1(1) of the Act provides that a charitable organization outside Canada is a qualified donee if it is registered by the Minister of National Revenue and has applied for registration under subsection 149.1(26). These are generally foreign organizations that have received a gift from Her Majesty in right of Canada in the previous 24 months.

Subparagraph (*a*)(v) is amended to replace the reference to "organization" with "charity", consequential to changes to subsection 149.1(26), which allow the Minister to register foreign charitable foundations in addition to foreign charitable organizations. "Charity" is defined in subsection 149.1(1) to refer to both a charitable organization and a charitable foundation. For further information, see the commentary for subsection 149.1(26).

This amendment applies to applications made by foreign charitable foundations on or after Royal Assent.

**Foreign Charitable Organizations**

ITA
149.1(26)

Subsection 149.1(26) of the Act provides the criteria under which the Minister of National Revenue, in consultation with the Minister of Finance, may register a foreign organization for the purposes of the definition "qualified donee" in subsection 149.1(1). Currently, only a foreign organization that is a charitable organization can be eligible for registration. Subsection 149.1(26) is amended, by replacing the references to "organization" and "charitable organization" with references to "charity", to allow the Minister of National Revenue to also register foreign charitable foundations as qualified donees. As defined in subsection 149.1(1), a "charity" can be either a charitable organization or a charitable foundation. The criteria for determining eligibility for registration and the period of registration that currently apply to foreign charitable organizations will now also apply to foreign charitable foundations.

This amendment applies to applications made by foreign charitable foundations on or after Royal Assent.

**Clause 19**

**Definitions**

ITA
207.01(1)

Subsection 207.01(1) of the Act provides definitions that are relevant for the purposes of taxes under Part XI.01 of the Act, which may apply in respect of TFSAs, RRSPs and RRIFs.

**"TFSA dollar limit"**

The definition “TFSA dollar limit” in subsection 207.01(1) of the Act is relevant primarily for the determination of an individual’s “unused TFSA contribution room” and “excess TFSA amount” for a calendar year. For 2009, an individual’s limit was $5,000. For each year thereafter, it is the amount determined by indexing $5,000 to inflation and rounding the result to the nearest multiple of $500. On this basis, for the 2013 and 2014 calendar years, the limit was $5,500. Paragraph (*b*) of the definition “TFSA dollar limit” is amended to reflect this amount for the 2013 and 2014 calendar years.

Paragraph (*c*) of the definition “TFSA dollar limit” is also amended to increase an individual’s limit to $10,000 for calendar years after 2014. The amendment to paragraph (*c*) also reflects the fact that the TFSA dollar limit will cease to be indexed for inflation starting January 1, 2015.

## Income Tax Regulations

**Clause 20**

**Remittances to Receiver General**

ITR
108(1)

The rules for the remittance to the Receiver General of source deductions by employers and other payers of remuneration are set out in section 108 of the *Income Tax Regulations* (Regulations). Subsection 108(1) provides that, subject to subsections (1.1), (1.11) and (1.12), amounts deducted or withheld in a month must be remitted to the Receiver General on or before the 15th day of the following month.

Subsection 108(1) is amended to add a reference to new subsection 108(1.13), which provides that certain small new employers will be eligible to remit on a quarterly basis.

This amendment applies to amounts deducted or withheld after 2015.

**Quarterly Remittance – New Employer**

ITR
108(1.13)

New subsection 108(1.13) of the Regulations provides that where an employer is a new employer throughout a particular month, as determined under new subsections 108(1.4) and (1.41), all amounts deducted or withheld from payments described in the definition "remuneration" in subsection 100(1) of the Regulations made by the employer in the month may be remitted on a quarterly basis.

New subsection 108(1.13) applies to amounts deducted or withheld after 2015.

**Monthly Withholding Amount**

ITR
108(1.21)

New subsection 108(1.21) of the Regulations sets out the "monthly withholding amount" of an employer for a month. This is relevant to the determination of whether an employer continues to qualify as a "new employer" under subsection 108(4).

The monthly withholding amount for an employer for a month is the aggregate of all amounts each of which is an amount required to be remitted with respect to the month by the employer or, if the employer is a corporation, by each associated corporation, under

- Subsection 153(1) of the Act and a similar provision of a law of a province which imposes a tax upon the income of individuals, where the province has entered into an agreement with the Minister of Finance for the collection of taxes payable to the province, in respect of payments described in the definition "remuneration" in subsection 100(1);
- Subsection 21(1) of the *Canada Pension Plan*; or
- Subsection 82(1) of the *Employment Insurance Act*.

New subsection 108(1.21) applies to amounts deducted or withheld after 2015.

**New Employer**

ITR

108(1.4)

New subsection 108(1.4) of the Regulations contains rules for determining when an employer will be considered to be a new employer for the purposes of the new quarterly remitter category in subsection 108(1.13).

In this respect, an employer will be considered to become a new employer at the beginning of any month when the employer first becomes an employer (as defined in subsection 100(1) of the Regulations). An employer can first qualify as a new employer starting in 2016.

An employer will cease to be a new employer at a specified time (which is determined under new subsection 108(1.41)), if in a particular month the employer fails to meet any of the following conditions:

- the monthly withholding amount in respect of the employer for the particular month (determined under new subsection 108(1.21)) is less than $1,000, and
- throughout the 12-month period before that time, the employer has maintained a perfect compliance record, in that the employer has
  - remitted, on time, all amounts required to be remitted under subsection 153(1) of the Act, under subsection 21(1) of the *Canada Pension Plan*, under subsection 82(1) of the *Employment Insurance Act* or under Part IX of the *Excise Tax Act*, and
  - filed, on time, all returns required to be filed under the Act or Part IX of the *Excise Tax Act*.

New subsection 108(1.4) applies to amounts deducted or withheld after 2015.

**Specified Time**

ITR
108(1.41)

New subsection 108(1.41) of the Regulations establishes the “specified time” for the purposes of new subsection 108(1.4). In particular, new subsection 108(1.41) provides that the specified time when the new employer ceases to be a new employer is the end of the quarter in which the employer first fails to meet any of the conditions set out in new paragraph 108(1.4)(*b*). If an employer ceases to meet the qualifications for being a new employer at any time in a quarter, it will therefore continue to be eligible for quarterly reporting as a new employer until the end of the quarter.

New subsection 108(1.41) applies to amounts deducted or withheld after 2015.

**Clause 21**

**Capital Cost Allowance – Deductions Allowed**

ITR
1100(1)(*a*)(xxxix)

Subsection 1100(1) of the *Income Tax Regulations* sets out the capital cost allowance (CCA) rates that taxpayers may claim with respect to prescribed classes of depreciable property.

Subsection 1100(1) is amended by adding new subparagraph (*a*)(xxxix) to provide a 50 per cent CCA rate (calculated on a declining balance basis) for the new Class 53 in Schedule II to the Regulations. The new class generally applies to machinery and processing equipment acquired after 2015 and before 2026.

**Clause 22**

**Qualified Property**

ITR

4600(2)(k)

Subsection 4600(2) of the Regulations prescribes machinery and equipment for the purposes of the definition "qualified property" in subsection 127(9) of the Act. The specified percentage (also defined in subsection 127(9)) of the cost of a qualified property is included in paragraph (*a*) of the definition "investment tax credit" in subsection 127(9). A deduction may be claimed, under subsection 127(5), in respect of an investment tax credit against tax otherwise payable by a taxpayer.

Paragraph 4600(2)(*k*) is amended to add a reference to property included in new Class 53.

**Clause 23**

**RRIF Minimum Withdrawal Factors**

ITR
7308

The rules for registered retirement income funds (RRIFs) require that minimum amounts be paid annually from such funds. In general, the minimum amount for a year is the fair market value of the RRIF assets at the beginning of the year, multiplied by a factor corresponding to the attained age of the RRIF annuitant (or, on election, the annuitant's spouse or common-law partner). The factors are set out in subsections 7308(3) and (4) of the Regulations.

ITR
7308(3)

Subsection 7308(3) sets out the prescribed factors that apply for the purposes of determining the minimum amount that an annuitant under a RRIF established before 1993 is required to withdraw each year from the fund. For annuitants under age 79, the prescribed factor is determined by the formula 1/(90-age). Subsection 7308(3) is amended to prescribe new, lowered factors. It is also amended such that the formula 1/(90-age) applies in respect of annuitants under age 72.

These amendments apply for the 2015 and subsequent taxation year.

ITR
7308(4)

Subsection 7308(4) sets out the prescribed factors that apply for the purposes of determining the minimum amount that an annuitant under a RRIF established after 1992 is required to withdraw each year from the fund. Subsection 7308(4) is amended to introduce new, lowered factors.

These amendments apply for the 2015 and subsequent taxation year.

**Clause 24**

**Money Purchase Provisions**

ITR
8506

New subsections 8506(11) and (12) of the Regulations provide rules to allow for the re-contribution of certain variable benefit payments to an RPP in cases where a member has received, in 2015, more than the minimum amount, determined using the lowered prescribed factors under section 7308 for the year.

ITR
8506(11)

New subsection 8506(11) contains provisions that apply to contributions that meet the conditions described in new subsection 8506(12). Paragraph 8506(11)(*a*) deems the contributions to have been made in accordance with the plan as registered, allowing the member to deduct them. Paragraph 8506(11)(*b*) provides for the

contributions to be disregarded for the purposes of paragraph 8506(2)(*c.1*). That paragraph generally prohibits money purchase contributions after the member turns 71 years of age. Paragraph 8506(11)(*c*) deems the contributions to be excluded contributions for the purposes of paragraph 8301(4)(*a*), thus ensuring that they do not give rise to a pension adjustment amount for the member.

These amendments apply for the 2015 and subsequent taxation years.

ITR
8506(12)

New subsection 8506(12) sets out three conditions that a contribution must satisfy for subsection 8506(11) to apply. First, the contribution must have been made after December 31, 2014 and before March 1, 2016. Second, the contribution must be designated for this purpose in a manner acceptable to the Minister of National Revenue so as to ensure that the contributions that are intended to qualify can be identified. Finally, the amount of the contribution must not exceed the amount determined by the formula

$$A - B - C$$

Variable A is the lesser of two amounts. The first amount is, in general terms, the total of all variable benefit payments received in 2015 from the account and included, because of paragraph 56(1)(*a*), in computing the individual's income. The second amount is the minimum amount for the account for 2015, determined using the factor designated under subsection 7308(4) of the Regulations as they read on December 31, 2014.

Variable B is the minimum amount for 2015, determined using the lowered factor under subsection 7308(4) for the year.

Variable C is the portion of the individual's excess variable benefit payments under the money purchase provision that have previously been recontributed and designated for this purpose under this subsection.

These amendments apply to the 2015 and subsequent taxation years.

**Clause 25**

**Capital Cost Allowance**

ITR
Schedule II, Class 43 (30% CCA rate)

Schedule II to the Regulations lists the properties that can be included in each capital cost allowance (CCA) class. A portion of the capital cost of depreciable property is deductible as CCA each year. The CCA rate for each prescribed class in respect of property is set out in section 1100 of the Regulations.

Paragraph (*a*) of Class 43 applies to, in general, property that is acquired to be used in Canada primarily for the manufacturing or processing of goods for sale or lease (subject to such property being included in Class 29). Paragraph (*a*) of Class 43 is amended consequential to the addition of new Class 53 (CCA rate 50%), to specify that manufacturing or processing property included in the new Class 53 is excluded from Class 43.

**Clause 26**

**Capital Cost Allowance**

ITR
Schedule II, Class 53 (50% CCA rate)

Schedule II to the Regulations is amended by adding new CCA Class 53 (50% CCA rate, calculated on a declining balance basis) to apply to property that is machinery and equipment acquired after 2015 and before 2026, primarily for use in Canada for the manufacturing and processing of goods for sale or lease.

## Canada Pension Plan Regulations

**Clause 27**

**Remittances to Receiver General**

CPPR
8(1)

The rules for the remittance to the Receiver General of the employer's and the employee's contribution under the *Canada Pension Plan* are set out in section 8 of the *Canada Pension Plan Regulations* (Regulations).

Subsection 8(1) is amended to add a reference to new subsection 8(1.13), which provides that certain new employers will be eligible to remit on a quarterly basis.

This amendment applies to amounts and contributions required to be remitted to the Receiver General after 2015.

**Quarterly Remittance – New Employer**

CPPR
8(1.13)

New subsection 8(1.13) of the Regulations provides that where an employer is a new employer throughout a particular month, as determined in new subsections 108(1.4) and (1.41) of the *Income Tax Regulations*, contributions payable in the month may be remitted on a quarterly basis.

New subsection 8(1.13) applies to amounts and contributions required to be remitted to the Receiver General after 2015.

**New employer**

CPPR
8(1.2)

Subsection 8(1.2) of the Regulations provides that certain provisions of the *Income Tax Regulations* apply for the purposes of the remittance requirements under the Regulations.

Subsection 8(1.2) is amended to add references to the new provisions in subsections 108(1.21), (1.4) and (1.41) of the *Income Tax Regulations*, which will apply for the purposes of determining the monthly withholding amount of an employer for a month and whether an employer qualifies as a new employer.

These amendments apply to amounts and contributions required to be remitted to the Receiver General after 2015.

## Insurable Earnings and Collection of Premiums Regulations

**Clause 28**

**Remittances to Receiver General**

IECPR
4(1)

The rules for the remittance to the Receiver General of the employer's and the employee's premiums payable under the *Employment Insurance Act* and the *Insurable Earnings and Collection of Premium Regulations* (Regulations) are set out in section 4 of the Regulations.

Subsection 4(1) is amended to add a reference to new subsection 4(3.2), which provides that certain new employers will be eligible to remit on a quarterly basis.

This amendment applies to amounts and contributions required to be remitted to the Receiver General after 2015.

**Quarterly Remittance – New Employer**

IECPR
4(3.2)

New subsection 4(3.2) of the Regulations provides that where an employer is a new employer throughout a particular month, as determined in new subsections 108(1.4) and (1.41) of the *Income Tax Regulations*, premiums payable in the month may be remitted on a quarterly basis.

New subsection 4(3.2) applies to amounts and contributions required to be remitted to the Receiver General after 2015.

**New Employer**

IECPR
4(4)

Subsection 4(4) of the Regulations provides that certain provisions of the *Income Tax Regulations* apply for the purposes of the remittance requirements under the Regulations.

Subsection 4(4) is amended to add references to the new provisions in subsection 108(1.21), (1.4) and (1.41) of the *Income Tax Regulations*, which will apply for the purposes of determining the monthly withholding amount of an employer for a month and whether an employer qualifies as a new employer.

These amendments apply to amounts and contributions required to be remitted to the Receiver General after 2015.

## Part 2

## Division 1

## Amendments to the Income Tax Act

### Clause 29

### Definitions

ITA
63(3)

Subsection 63(3) of the Act contains definitions for the purposes of the child care expense deduction.

The definition “annual child care expense amount” in subsection 63(3) sets out the overall maximum amount that may be deducted for a year in respect of child care expenses for an eligible child. This definition is amended to increase the overall maximum amounts that may be deducted. In the case of a child in respect of whom the disability tax credit may be claimed, the annual child care expense amount is increased from $10,000 to $11,000. For children under seven years of age at the end of the relevant year, the annual child care expense amount is increased from $7,000 to $8,000. For children aged 7 to 16 (or if they are infirm) at the end of the relevant year, the annual child care expense amount is increased from $4,000 to $5,000.

This amendment applies to the 2015 and subsequent taxation years.

### Clause 30

### Child Amount

ITA
118(1)

Paragraph (*b.1*) of the description of B in subsection 118(1) of the Act provides the child tax credit and the family caregiver amount for a child. Paragraph (*b.1*) is amended to repeal the child tax credit.

An individual may continue to be eligible for the family caregiver amount for a child. This provides an individual with a tax credit of $2,000 (indexed to inflation) for an eligible child who, by reason of mental or physical infirmity, is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to the child’s personal needs and care, when compared to children of the same age.

This amendment applies to the 2015 and subsequent taxation years.

### Clause 31

### Ordering of Credits

ITA
118.92

Section 118.92 of the Act provides that the tax credits allowed in computing an individual's tax payable for a taxation year are to be applied in a specific order. For the 2014 taxation year, this section is amended to add a reference to new section 119.1, consequential to the introduction of the family tax cut credit. For the 2015 and subsequent taxation years, this section is amended to remove a reference to section 118.03, consequential to amendments that make the child fitness tax credit refundable.

**Clause 32**

**Family Tax Cut Credit**

ITA
119.1

New section 119.1 of the Act introduces the family tax cut credit. Under this credit, a couple, with a child under the age of 18, may effectively transfer up to $50,000 of taxable income from one spouse or common-law partner to the other, up to a maximum benefit of $2,000.

New section 119.1 applies to the 2014 and subsequent taxation years.

**Definitions**

ITA
119.1(1)

New subsection 119.1(1) of the Act sets out definitions that apply for the family tax cut credit.

**"adjusted base tax payable"**

The "adjusted base tax payable", of an individual for a taxation year, means the amount that would be the individual's tax payable under Part I of the Act for the year if the individual's taxable income for the year were equal to the individual's split-adjusted income (as defined in this subsection) for the year without including any amount deductible under Division E of the Act other than the individual's adjusted non-refundable tax credits amounts (as defined in this subsection) for the year.

**"adjusted non-refundable tax credits amount"**

The "adjusted non-refundable tax credits amount", of an individual for a taxation year, is the amount of non-refundable tax credits that the individual would be able to deduct in computing the individual's tax payable for the year in addition to any amount that the individual may deduct under the married or common-law credit in computing the individual's tax payable for the year. Certain tax credits that are transferrable between spouses or common-law partners are excluded from the determination of this amount, as their inclusion would lead to a double counting of tax

credits. However, this is not the case for transferrable tax credits relating to tuition, textbooks and education, which are therefore not excluded. For the purposes of this definition, the amount available to be deducted under the married or common-law credit is determined as if the reference to $10,527 were $0 in the formula set out in subparagraph (*a*)(ii) of the description of B in subsection 118(1) and as if the description of C.1 in that formula were equal to the difference between the income of the individual's spouse or common-law partner for the year and $10,527.

**"base tax payable"**

The "base tax payable", of an individual for a taxation year, means the amount that would be the individual's tax payable for the year as calculated under Part I of the Act if no amount were deductible under Division E of the Act, other than amounts deductible under any of sections 118 to 118.9.

**"combined adjusted base tax payable"**

The "combined adjusted base tax payable", of a qualifying individual (as defined in this subsection), is equal to the total of the individual's adjusted base tax payable (as defined in this subsection) for the year and the individual's eligible relation's (as defined in this subsection) adjusted base tax payable for the year.

**"combined base tax payable"**

The "combined base tax payable", of a qualifying individual for a taxation year, is equal to the total of the qualifying individual's base tax payable (as defined in this subsection) for the year and the eligible relation's (as defined in this subsection) base tax payable for the year.

**"eligible relation"**

An "eligible relation" of an individual for a taxation year means an individual who meets certain conditions. First, the individual must be resident in Canada at the end of the calendar year in which the taxation year ends (or immediately before their death). Also, the individual must be married to or be in a common-law partnership with a qualifying individual (as defined in this subsection) at any time in the taxation year and not living separate and apart from the qualifying individual because of a breakdown of their relationship at the end of the taxation year and for a period of 90 days or more commencing in the taxation year.

**"qualifying individual"**

A "qualifying individual" for a taxation year means an individual who:

- is married or in a common-law partnership with an eligible relation (as defined in this subsection) for the year, provided the eligible relation has not deducted an amount under section 119.1 for the year;
- has a child who:

  - is under the age of 18 at the end of the year; and
  - ordinarily resides throughout the year with the individual and the individual's eligible relation (subject to the deeming rules in new subsection 119.1(4));
- is resident in Canada at the end of the calendar year in which the taxation year ends (or immediately before their death); and
- is not confined to a prison or similar institution for a period of at least 90 days during the year.

**"split-adjusted income"**

The "split-adjusted income" of an individual for a taxation year is:

- if the individual's taxable income for the year is greater than the taxable income for the year of the individual's eligible relation (as defined in this subsection), the amount that is the individual's taxable income less the individual's split adjustment (as defined in this subsection) for the year;
- if the individual's taxable income for the year is less than the taxable income for the year of the individual's eligible relation, the amount that is the individual's taxable income plus the individual's split adjustment for the year; and
- in any other case, equal to the individual's taxable income for the year.

**"split adjustment"**

The "split adjustment" of an individual for a taxation year is the amount of taxable income an individual may split, up to a maximum of $50,000, with the individual's eligible relation (as defined in this subsection). The split adjustment is the lesser of $50,000 and one half of the absolute value of the amount determined by subtracting the individual's eligible relation's taxable income for the year from the individual's taxable income for the year.

## Family Tax Cut Credit

ITA
119.1(2)

New subsection 119.1(2) of the Act provides for the calculation of the family tax cut credit for a taxation year. The tax credit essentially represents the tax savings that could be obtained by a couple if they were entitled to split up to $50,000 of income, to a maximum of $2,000. The tax credit is determined by the formula A – B, where A is the qualifying individual's combined base tax payable for the year and B is the qualifying individual's combined adjusted base tax payable (both defined in subsection 119.1(1)) for the year.

## Deduction Not Available

ITA
119.1(3)

New subsection 119.1(3) of the Act provides that an individual is not entitled to the family tax cut credit in a taxation year if the individual or the individual's eligible relation (as defined in subsection 119.1(1))

- does not file a return of income in respect of the taxation year with the Minister of National Revenue;
- becomes bankrupt in the calendar year in which the taxation year ends; or
- makes an election for the taxation year to split pension income under section 60.03 of the Act.

**Taxation Year Deeming Rules**

ITA
119.1(4)

New subsection 119.1(4) of the Act provides that for the purpose of applying the definition "qualifying individual" in subsection 119.1(1) in determining whether that child ordinarily resides throughout the taxation year with the individual or the individual's eligible relation, the taxation year does not include:

- in the event of the birth or adoption of a child in the taxation year, the part of the year that is before the child's birth or adoption;
- in the event an individual marries or becomes a common-law partner at any time in the year, the part of the year that is before that time;
- in the event of the death of a child, an individual or an eligible relation of an individual in the taxation year, the part of the year that is after the death; and
- in the event of an individual or an eligible relation of an individual becoming resident in Canada in the year, any part of the year that the person is a non-resident of Canada.

This new provision ensures that in the year of such an event, an individual otherwise entitled to the credit can claim the credit.

**Clause 33**

**Where Individual Bankrupt**

ITA
128(2)

Subsection 128(2) of the Act contains a number of special rules that apply in cases of personal bankruptcy. Clause 128(2)(*e*)(iii)(A) is amended to add a reference to new section 119.1, consequential to the introduction of the family tax cut credit.

This amendment applies to the 2014 and subsequent taxation years.

**Clause 34**

**Reduction Not Permitted**

ITA
153(1.3)

Subsection 153(1.1) of the Act gives the Minister of National Revenue the discretion to reduce the amount of tax required to be deducted or withheld under subsection 153(1) in cases where the Minister is satisfied that the amount required to be deducted or withheld from a payment under that subsection would cause undue hardship to a taxpayer.

Subsection 153(1.3) provides that a joint election made or expected to be made under section 60.03 is not a basis on which the Minister can exercise discretion under subsection 153(1.1) to reduce the tax deducted or withheld under subsection 153(1). Subsection 153(1.3) is amended to extend this restriction to family tax cut credit deductions under section 119.1.

This amendment applies to the 2014 and subsequent taxation years.