

DRAFT REGULATIONS TO AMEND THE INCOME TAX REGULATIONS

1. (1) Subsection 1100(1) of the *Income Tax Regulations* is amended by adding the following after paragraph (a.2):

(a.3) such additional amount as the taxpayer may claim in respect of property used as part of an eligible liquefaction facility for which a separate class is prescribed by subsection 1101(5b.2), not exceeding the lesser of

- (i) the income for the taxation year from the taxpayer's eligible liquefaction activities in respect of the eligible liquefaction facility (before making any deduction under this paragraph), and
- (ii) 6 per cent of the undepreciated capital cost to the taxpayer of property of that separate class as of the end of the taxation year (before making any deduction under this subsection for the taxation year);

(2) Subsection 1100(1) of the *Regulations* is amended by adding the following after paragraph (y.2):

Additional Allowance — Class 47

(y.3) such additional amount as the taxpayer may claim in respect of property used as part of an eligible liquefaction facility for which a separate class is prescribed by subsection 1101(4i), not exceeding the lesser of

- (i) the income for the taxation year from the taxpayer's eligible liquefaction activities in respect of the eligible liquefaction facility (before making any deduction under this paragraph), and
- (ii) 22 per cent of the undepreciated capital cost to the taxpayer of property of that separate class as of the end of the taxation year (before making any deduction under this subsection for the taxation year);

2. (1) Section 1101 of the *Regulations* is amended by adding the following after subsection (4h):

Class 47 — Liquefaction equipment

(4i) If a taxpayer acquires property that is eligible liquefaction equipment to be used as part of an eligible liquefaction facility of the taxpayer, a separate class is prescribed for all such properties that were acquired for the purpose of gaining or producing income from that eligible liquefaction facility.

(2) Subsection 1101(5b.1) of the *Regulations* is replaced by the following:

(5b.1) For the purpose of this Part, a separate class is prescribed for each eligible non-residential building (other than an eligible liquefaction building) of a taxpayer in respect of which the taxpayer has (by letter attached to the return of income of the taxpayer filed with the Minister in accordance with section 150 of the Act for the taxation year in which the building is acquired) elected that this subsection apply.

Liquefaction building

(5b.2) If a taxpayer acquires property that is an eligible liquefaction building to be used as part of an eligible liquefaction facility of the taxpayer, a separate class is prescribed for all such properties that were acquired for the purpose of gaining or producing income from that eligible liquefaction facility.

3. (1) Subsection 1104(2) of the Regulations is amended by adding the following in alphabetical order:

“eligible liquefaction building” of a taxpayer, in respect of an eligible liquefaction facility of the taxpayer, means property (other than an excluded building) acquired by the taxpayer after February 19, 2015 and before 2025 that is included in Class 1 in Schedule II because of its paragraph (q) and that is used as part of the eligible liquefaction facility; (*bâtiment de liquéfaction admissible*)

“eligible liquefaction equipment” in respect of an eligible liquefaction facility of a taxpayer, means property of the taxpayer that is used in connection with the liquefaction of natural gas and that

- (a) is acquired by the taxpayer after February 19, 2015 and before 2025,
- (b) is included in Class 47 in Schedule II because of its paragraph (b),
- (c) has not been used or acquired for use for any purpose before it was acquired by the taxpayer,
- (d) is not excluded equipment, and
- (e) is used as part of the eligible liquefaction facility; (*matériel de liquéfaction admissible*)

“eligible liquefaction facility” of a taxpayer means a self-contained system located in Canada — including buildings, structures and equipment — that is used or intended to be used by the taxpayer for the purpose of liquefying natural gas; (*installation de liquéfaction admissible*)

“excluded building” means

- (a) a residential building, and
- (b) property that has been used or acquired for use for any purpose before it was acquired by the taxpayer; (*bâtiment non admissible*)

“excluded equipment” means

- (a) pipelines (other than pipelines used to move natural gas within an eligible liquefaction facility during the liquefaction process or liquefied natural gas),
- (b) equipment used exclusively to regasify liquefied natural gas, and
- (c) electrical generation equipment; (*matériel non admissible*)

(2) Section 1104 of the Regulations is amended by adding the following after subsection (17):

Classes 1 and 47 — Liquefaction property

(18) For the purposes of paragraphs 1100(1)(a.3) and (y.3), a taxpayer's income for a taxation year from eligible liquefaction activities in respect of an eligible liquefaction facility of the taxpayer is determined as if

(a) the taxpayer carried on a separate business

(i) the only income of which is,

(A) in the case of natural gas that is owned by the taxpayer at the time it enters the taxpayer's eligible liquefaction facility, income from the sale by the taxpayer of the natural gas that has been liquefied, whether sold as liquefied natural gas or regasified natural gas, and

(B) in any other case, income reasonably attributable to the liquefaction of natural gas at the taxpayer's eligible liquefaction facility, and

(ii) in respect of which the only permitted deductions in computing its income are those deductions that are attributable to income described in subparagraph (i) and, in the case of income described in clause (i)(A), that are reasonably attributable to income derived after the natural gas enters the eligible liquefaction facility; and

(b) in the case of income described in clause (a)(i)(A), the taxpayer acquired the natural gas that has been liquefied at a cost equal to the fair market value of the natural gas at the time it entered the eligible liquefaction facility.

(19) For the purpose of clause (18)(a)(i)(B), in the case of a peak shaving facility, the calculation of the income reasonably attributable to the liquefaction of natural gas at a taxpayer's peak shaving facility is to be determined based only on the natural gas distributed by the taxpayer that has been liquefied by the taxpayer. For this purpose, a peak shaving facility is an eligible liquefaction facility (or part of it) used to liquefy natural gas where the taxpayer distributes natural gas that it liquefied and regasified, which is subsequently commingled with natural gas that has not been liquefied.

4. These Regulations are deemed to have come into force on February 19, 2015.