

# Amendments to the Income Tax Act and Regulations

**1 (1) The portion of paragraph 104(21.2)(b) of the *Income Tax Act* before subparagraph (i) is replaced by the following:**

(b) the beneficiary is, for the purposes of section 120.4 and for the purposes of sections 3, 74.3 and 111 as they apply for the purposes of section 110.6,

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**2 (1) The definitions *excluded amount* and *specified individual* in subsection 120.4(1) of the Act are replaced by the following:**

***excluded amount***, in respect of an individual for a taxation year, means an amount that is the individual's income for the year from, or the individual's taxable capital gain or profit for the year from the disposition of, a property to the extent that the amount

(a) if the individual has not attained the age of 24 years before the year, is from a property that was acquired by, or for the benefit of, the individual as a consequence of the death of a person who is,

(i) a parent of the individual, or

(ii) any person, if the individual is

(A) enrolled as a full-time student during the year at a *post-secondary educational institution* (as defined in subsection 146.1(1)), or

(B) an individual in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year;

(b) is from a property acquired by the individual under a transfer described in subsection 160(4);

(c) is a taxable capital gain that arises because of subsection 70(5);

(d) is a taxable capital gain for the year from the disposition by the individual of property that is, at the time of the disposition, qualified farm or fishing property of the individual or qualified small business corporation shares of the individual, unless the amount would be deemed to be a dividend under subsection 120.4(4) or (5) if this definition were read without reference to this paragraph;

(e) if the individual has attained the age of 17 years before the year, is

(i) not derived directly or indirectly from a related business in respect of the individual, or

(ii) derived directly or indirectly from an excluded business of the individual;

(f) if the individual has attained the age of 17 years but not the age of 24 years before the year, is

(i) a safe harbour capital return of the individual, or

(ii) a reasonable return in respect of the individual, having regard only to the contributions of arm's length capital by the individual; or

(g) if the individual has attained the age of 24 years before the year, is

(i) income from, or a taxable capital gain from the disposition of, excluded shares of the individual, or

(ii) a reasonable return in respect of the individual. (*montant exclu*)

**specified individual**, for a taxation year, means an individual (other than a trust) who

(a) is resident in Canada

(i) in the case where the individual dies in the year, immediately before the death, and

(ii) in any other case, at the end of the year; and

(b) if the individual has not attained the age of 17 years before the year, has a parent resident in Canada at any time in the year. (*particulier déterminé*)

**(2) Subparagraph (b)(ii) of the definition *split income* in subsection 120.4(1) of the Act is replaced by the following:**

(ii) can reasonably be considered to be income derived directly or indirectly from

(A) one or more related businesses in respect of the individual for the year, or

(B) the rental of property by a particular partnership or trust, if a person who is related to the individual at any time in the year

(I) is actively engaged on a regular basis in the activities of the particular partnership or trust related to the rental of property, or

(II) in the case of a particular partnership, has an interest in the particular partnership directly or indirectly through one or more other partnerships,

**(3) Clauses (c)(ii)(C) and (D) of the definition *split income* in subsection 120.4(1) of the Act are replaced by the following:**

(C) to be income derived directly or indirectly from one or more related businesses in respect of the individual for the year, or

(D) to be income derived from the rental of property by a particular partnership or trust, if a person who is related to the individual at any time in the year is actively engaged on a regular basis in the activities of the particular partnership or trust related to the rental of property,

**(4) The definition *split income* in subsection 120.4(1) of the Act is amended by adding the following after paragraph (c):**

(d) an amount included in computing the individual's income for the year to the extent that the amount is in respect of a debt obligation that

(i) is of a corporation (other than a mutual fund corporation or a corporation shares of a class of the capital stock of which are listed on a designated stock exchange), partnership or trust (other than a mutual fund trust), and

(ii) is not

(A) described in paragraph (a) of the definition *fully exempt interest* in subsection 212(3),

(B) listed or traded on a public market, or

(C) a deposit, standing to the credit of the individual,

(I) within the meaning assigned by the *Canada Deposit Insurance Corporation Act*, or

(II) with a credit union or a branch in Canada of a bank, and

(e) an amount in respect of a property, to the extent that

(i) the amount

(A) is a taxable capital gain, or a profit, of the individual for the year from the disposition after 2017 of the property, or

(B) is included under subsection 104(13) or 105(2) in computing the individual's income for the year and can reasonably be considered to be attributable to a taxable capital gain, or a profit, of any person or partnership for the year from the disposition after 2017 of the property, and

(ii) the property is

(A) a share of the capital stock of a corporation (other than a share of a class listed on a designated stock exchange or a share of the capital stock of a mutual fund corporation), or

(B) a property in respect of which the following conditions are met:

(I) the property is

1 an interest in a partnership,

2 an interest as a beneficiary under a trust (other than a mutual fund trust or a trust that is deemed to be in existence by subsection 143(1)), or

3 a debt obligation (other than a debt obligation described in any of clauses (d)(ii)(A) to (C)), and

(II) either

1 in respect of the property an amount is included in the individual's split income for the year or an earlier taxation year, or

2 all or any part of the fair market value of the property, immediately before the disposition referred to in clause (i)(A) or (B), as the case may be, is derived, directly or indirectly, from a share described in clause (A). (*revenu fractionné*)

**(5) Subsection 120.4(1) of the Act is amended by adding the following in alphabetical order:**

***arm's length capital***, of a specified individual, means property of the individual if the property, or property for which it is a substitute, was not

(a) acquired as income from, or a taxable capital gain or profit from the disposition of, another property that was derived directly or indirectly from a related business in respect of the specified individual;

(b) borrowed by the specified individual under a loan or other indebtedness; or

(c) transferred, directly or indirectly by any means whatever, to the specified individual from a person who was related to the specified individual (other than as a consequence of the death of a person). (*actif indépendant*)

***excluded business***, of a specified individual for a taxation year, means a business if the specified individual is actively engaged on a regular, continuous and substantial basis in the activities of the business in either

(a) the taxation year, except in respect of an amount described in paragraph (e) of the definition *split income*; or

(b) any five prior taxation years. (*entreprise exclue*)

**excluded shares**, of a specified individual at any time, means shares of the capital stock of a corporation owned by the specified individual if

(a) the following conditions are met:

(i) less than 90% of the business income of the corporation for the last taxation year of the corporation that ends at or before that time (or, if no such taxation year exists, for the taxation year of the corporation that includes that time) was from the provision of services, and

(ii) the corporation is not a professional corporation;

(b) immediately before that time, the shares

(i) give the holders thereof 10% or more of the votes that could be cast at an annual meeting of the shareholders of the corporation, and

(ii) have a fair market value of 10% or more of the fair market value of all of the issued and outstanding shares of the capital stock of the corporation; and

(c) all or substantially all of the income of the corporation for the relevant taxation year in subparagraph (a)(i) is income that is not derived, directly or indirectly, from one or more other related businesses in respect of the specified individual. (*actions exclues*)

**reasonable return**, in respect of a specified individual for a taxation year, means a particular amount derived directly or indirectly from a related business in respect of the specified individual that

(a) would, if this subsection were read without reference to subparagraph (f)(ii) or (g)(ii) of the definition *excluded amount*, be an amount described in the definition *split income* in respect of the specified individual for the year; and

(b) is reasonable having regard to the following factors relating to the relative contributions of the specified individual, and each source individual in respect of the specified individual, in respect of the related business:

(i) the work they performed in support of the related business,

(ii) the property they contributed, directly or indirectly, in support of the related business,

(iii) the risks they assumed in respect of the related business,

(iv) the total of all amounts that were paid or that became payable, directly or indirectly, by any person or partnership to, or for the benefit of, them in respect of the related business, and

(v) such other factors as may be relevant. (*rendement raisonnable*)

**related business**, in respect of a specified individual for a taxation year, means

(a) a business carried on by

(i) a source individual in respect of the specified individual at any time in the year, or

(ii) a partnership, corporation or trust if a source individual in respect of the specified individual at any time in the year is actively engaged on a regular basis in the activities of the partnership, corporation or trust related to earning income from the business;

(b) a business of a particular partnership, if a source individual in respect of the specified individual at any time in the year has an interest — including directly or indirectly through one or more partnerships — in the particular partnership; and

(c) a business of a corporation, if the following conditions are met at any time in the year:

(i) a source individual in respect of the specified individual owns

(A) shares of the capital stock of the corporation, or

(B) property that derives, directly or indirectly, all or part of its fair market value from shares of the capital stock of the corporation, and

(ii) it is the case that

$$0.1A \leq B + C$$

where

A is the total fair market value of all of the issued and outstanding shares of the capital stock of the corporation,

B is the total fair market value at that time of property described in clause (i)(A), and

C is the portion of the total fair market value of property described in clause (i)(B) that is derived from shares of the capital stock of the corporation. (*entreprise liée*)

**safe harbour capital return**, of a specified individual for a taxation year, means an amount that does not exceed the amount determined by the formula

$$A \times B$$

where

A is the rate equal to the highest prescribed rate of interest in effect for a quarter in the year, and

B is the total of all amounts each of which is determined by the formula

$$C \times D/E$$

where

C is the fair market value of property contributed by the specified individual in support of a related business at the time it was contributed,

D is the number of days in the year that the property (or property substituted for it) is used in support of the related business and has not directly or indirectly, in any manner whatever, been returned to the specified individual, and

E is the number of days in the year. (*rendement exonéré*)

**source individual**, in respect of a specified individual for a taxation year, means an individual (other than a trust) who, at any time in the year, is

(a) resident in Canada; and

(b) related to the specified individual. (*particulier source*)

**(6) Section 120.4 of the Act is amended by adding the following after subsection (1):**

**Additional rules — specified individual**

**(1.1)** For the purpose of applying this section in respect of a specified individual in respect of a taxation year,

(a) an individual is deemed to be actively engaged on a regular, continuous and substantial basis in the activities of a business in a taxation year of the individual if the individual works in the business at least an average of 20 hours per week during the portion of the year in which the business operates;

(b) if an amount would — if this section were read without reference to this paragraph — be split income of a specified individual who has attained the age of 17 years before the year in respect of a property, and that property was acquired by, or for the benefit of, the specified individual as a consequence of the death of another person, then

(i) for the purpose of applying paragraph (b) of the definition *reasonable return* in subsection (1), to the extent that the particular amount referred to in that paragraph is in respect of the property, then the factors referred to in that paragraph in respect of the other person are to be included for the purpose of determining a reasonable return in respect of the individual,

(ii) for the purposes of the definition *excluded business* in subsection (1), if the other person was actively engaged on a regular, substantial and continuous basis in the activities of a business throughout five previous taxation years, then the individual is deemed to have been actively engaged on a regular, substantial and continuous basis in the business throughout those five years, and

(iii) for the purpose of applying paragraph (g) of the definition *excluded amount* in subsection (1) in respect of that property, the individual is deemed to have attained the age of 24 years before the year if the other person had attained the age of 24 years before the year;

(c) an amount that is a specified individual's income for a taxation year from, or the specified individual's taxable capital gain or profit for the year from the disposition of, a property is deemed to be an excluded amount in respect of the specified individual for the taxation year if

(i) the following conditions are met:

(A) the amount would be an excluded amount in respect of the specified individual's spouse or common-law partner for the year, if the amount were included in computing the spouse or common-law partner's income for the year, and

(B) the spouse or common law partner has attained the age of 64 years before the year, or

(ii) the amount would have been an excluded amount in respect of an individual who was, immediately before their death, the specified individual's spouse or common-law partner, if the amount were included in computing the spouse or common-law partner's income for their last taxation year (determined as if this section applies in respect of that year); and

(d) for greater certainty, an amount derived directly or indirectly from a business includes an amount that

(i) is derived from the provision of property or services to, or in support of, the business,

(ii) arises in connection with the ownership or disposition of an interest in the person or partnership carrying on the business, or

(iii) is derived from an amount that is derived directly or indirectly from the business.

**(7) Subsections 120.4(3) to (5) of the Act are replaced by the following:**

**Tax payable by a specified individual**

(3) Notwithstanding any other provision of this Act, if an individual is a specified individual for a taxation year, the individual's tax payable under this Part for the year shall not be less than the amount by which the amount added under subsection (2) to the individual's tax payable under this Part for the year exceeds the amount determined by the formula

$$A + B$$

where

A is the amount deducted under section 118.3 in computing the individual's tax payable under this Part for the year, and

B is the total of all amounts each of which is the amount that

(a) may be deducted under section 121 or 126 in computing the individual's tax payable under this Part for the year, and

(b) can reasonably be considered to be in respect of an amount included in computing the individual's split income for the year.

#### **Taxable capital gain**

(4) If a specified individual who has not attained the age of 17 years before a taxation year would have for the taxation year, if this Act were read without reference to this section, a taxable capital gain (other than an excluded amount) from a disposition of shares (other than shares of a class listed on a designated stock exchange or shares of a mutual fund corporation) that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, then the amount of that taxable capital gain is deemed not to be a taxable capital gain and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend that is not an eligible dividend.

#### **Taxable capital gain of trust**

(5) If a specified individual who has not attained the age of 17 years before a the taxation year would be, if this Act were read without reference to this section, required under subsection 104(13) or 105(2) to include an amount in computing the specified individual's income for the taxation year, then to the extent that the amount can reasonably be considered to be attributable to a taxable capital gain (other than an excluded amount) of a trust from a disposition of shares (other than shares of a class listed on a designated stock exchange or shares of a mutual fund corporation) that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, subsections 104(13) and 105(2) do not apply in respect of the amount and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend that is not an eligible dividend.

**(8) Subsections (1) to (7) apply to the 2018 and subsequent taxation years. For the 2018 taxation year, the portion of paragraph (b) of the definition *excluded shares* before subparagraph (i), as enacted by subsection (5), is to be read as follows:**

(b) immediately before that time or the end of 2018, the shares

**3 (1) Subsection 160(1.2) of the Act is replaced by the following:**

#### **Joint and several, or solidary, liability — tax on split income**

(1.2) If an amount is required to be added because of subsection 120.4(2) in computing a specified individual's tax payable under this Part for a taxation year and the specified individual has not attained the age of 24 years before the start of the year, the following rules apply:

(a) subject to paragraph (b), a particular individual is jointly and severally, or solidarily, liable with the specified individual for the amount if

(i) where the specified individual has not attained the age of 17 years before the year, the particular individual is a parent of the specified individual, and

(ii) where the specified individual has attained the age of 17 years before the year,

(A) the particular individual is a source individual in respect of the specified individual,

(B) the amount was derived directly or indirectly from a related business in respect of the specified individual, and

(C) the particular individual meets the conditions in any of paragraphs (a) to (c) in the definition *related business* in subsection 120.4(1) in respect of the related business;

(b) the particular individual's liability under paragraph (a) in respect of the specified individual for the year is to be determined as though the only amounts included in the specified individual's split income for the year are amounts derived from the related business referred to in subparagraph (a)(ii); and

(c) nothing in this subsection limits the liability of

(i) the specified individual under any other provision of this Act, or

(ii) the particular individual for the interest that the particular individual is liable to pay under this Act on an assessment in respect of the amount that the particular individual is liable to pay because of this subsection.

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

## Adjustments for refundable tax credits and transferred credits

**4 (1) The description of B of the formula in subsection 118(2) of the Act is replaced by the following:**

**B** is 15% of the amount, if any, by which the individual's income for the year would exceed \$25,921 if, in computing that income, no amount were included in respect of a gain from a disposition of property to which section 79 applies and no amount were deductible under paragraph 20(1)(ww).

**(2) Subsection 118(4) of the Act is amended by adding the following after paragraph (a.1):**

**(a.2)** a reference to income for a year is to be read as a reference to that income determined as if, in computing that income, no amount were deductible under paragraph 20(1)(ww);

**(3) Subsections (1) and (2) apply to the 2018 and subsequent taxation years.**

**5 (1) Paragraph (b) of the definition *adjusted income* in subsection 122.5(1) of the Act is replaced by the following:**

(b) deductible under paragraph 20(1)(ww) or 60(y) or (z).(*revenu rajusté*)

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**6 (1) Paragraph (b) of the definition *adjusted income* in section 122.6 of the Act is replaced by the following:**

(b) deductible under paragraph 20(1)(ww) or 60(y) or (z);(*revenu modifié*)

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**7 (1) Paragraph (c) of the definition *adjusted net income* in subsection 122.7(1) of the Act is replaced by the following:**

(c) in computing that income, no amount were deductible under paragraph 20(1)(ww) or 60(y) or (z).(*revenu net rajusté*)

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**8 (1) Paragraph (b) of the definition *adjusted income* in subsection 180.2(1) of the Act is replaced by the following:**

(b) deductible under paragraph 20(1)(ww) or 60(w), (y) or (z);(*revenu modifié*)

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

## Changes to the TIN rules

**9 (1) The portion of subsection 162(6) of the Act before paragraph (a) is replaced by the following:**



**Failure to provide identification number**

**(6)** Every person or partnership who fails to provide on request their business number, their Social Insurance Number, their trust account number or their U.S. federal taxpayer identifying number to a person required under this Act or the Regulations to make an information return requiring the number is liable to a penalty of \$100 for each such failure, unless

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**10 (1) Paragraph 221(1)(d.1) of the Act is replaced by the following:**

**(d.1)** requiring any person or partnership to provide any information — including their name, address, business number, Social Insurance Number or trust account number — to any class of persons required to make an information return containing that information;

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**11 (1) Subsections 237(1.1) to (3) of the Act are replaced by the following:**

**Production of number**

**(1.1)** Every person and partnership shall provide their designated number

**(a)** in any return filed under this Act; or

**(b)** to another person or partnership at the request of the other person or partnership, if the other person or partnership is required to make an information return pursuant to this Act or the Regulations requiring the designated number.

**Designated number**

**(1.2)** For the purpose of subsection (1.1), **designated number**, of a person or partnership, means

**(a)** in the case of an individual (other than a trust), their Social Insurance Number;

**(b)** in the case of a trust, its trust account number; and

**(c)** in any other case, the person's or partnership's business number.

**Number required in information returns**

**(2)** For the purposes of this Act and the Regulations, a person or partnership required to make an information return requiring a business number, Social Insurance Number or trust account number of another person or partnership

**(a)** shall make a reasonable effort to obtain the number from the other person or partnership; and

**(b)** shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under this Act or a regulation, the number without the written consent of the other person or partnership.

**Authority to communicate number**

**(3)** A particular person may communicate, or allow to be communicated, a business number, Social Insurance Number or trust account number to another person related to the particular person where the other person is required, by this Act or the Regulations, to make an information return that requires the number.

**(2) The portion of subsection 237(4) of the Act before paragraph (a) is replaced by the following:**

**Authority to communicate number**

**(4)** An insurance corporation may communicate, or allow to be communicated, to another person the business number, Social Insurance Number or trust account number of a particular person or partnership if

**(3) Paragraph 237(4)(c) of the Act is replaced by the following:**

(c) the other person is required, by this Act or the Regulations, to make an information return, in respect of the disposition of the share or income from the share, that requires the number.

**(4) Subsections (1) to (3) apply to the 2018 and subsequent taxation years.**

**12 (1) Paragraph 237.1(7)(a) of the Act is replaced by the following:**

(a) the name, address and the business number, Social Insurance Number or trust account number of each person who so acquires or otherwise invests in the tax shelter in the year,

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**13 (1) Subsection 239(2.3) of the Act is replaced by the following:**

**Offence with respect to an identification number**

**(2.3)** Every person to whom the business number of a taxpayer or partnership, to whom the Social Insurance Number of an individual or to whom the trust account number of a trust has been provided under this Act or the Regulations, and every officer, employee and agent of such a person, who without written consent of the individual, taxpayer, partnership or trust, as the case may be, knowingly uses, communicates or allows to be communicated the number (otherwise than as required or authorized by law, in the course of duties in connection with the administration or enforcement of this Act or for a purpose for which it was provided by the individual, taxpayer, partnership or trust, as the case may be) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or to both.

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**14 (1) The portion of the definition *business number* in subsection 248(1) of the Act before paragraph (a) is replaced by the following:**

*business number* means the number (other than a Social Insurance Number or trust account number) used by the Minister to identify

**(2) Subsection 248(1) of the Act is amended by adding the following in alphabetical order:**

*trust account number* means the number (other than a business number)

(a) used by the Minister to identify a trust, and

(b) of which the Minister has notified the trust; (*numéro de compte en fiducie*)

**(3) Subsections (1) and (2) apply to the 2018 and subsequent taxation years.**

**15 (1) Subparagraph 201(1)(b)(ii) of the *Income Tax Regulations* is replaced by the following:**

(ii) in respect of

(A) money on loan to an association, corporation, institution, organization, partnership or trust,

(B) money on deposit with an association, corporation, institution, organization, partnership or trust, or

(C) property deposited or placed with an association, corporation, institution, organization, partnership or trust,

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**

**16 (1) Paragraph 229(1)(b) of the Regulations is replaced by the following:**

**(b)** in respect of each member of the partnership who is entitled to a share referred to in paragraph (c) or (d) for the fiscal period, the member's

**(i)** name,

**(ii)** address, and

**(iii)** business number, Social Insurance Number or trust account number, as the case may be;

**(2) Subsection (1) applies to the 2018 and subsequent taxation years.**