Explanatory Notes Relating to the Excise Tax Act, Excise Act, 2001, Air Travellers Security Charge Act and Related Regulations

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Preface

These explanatory notes describe proposed amendments to the *Excise Tax Act, Excise Act, 2001, Air Travellers Security Charge Act* and related regulations. 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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Excise Tax Act

Clause 1

Payment to end-users – diesel fuel

ETA
68.01(1)(a)

Subsection 68.01(1) of the *Excise Tax Act* (the Act) describes to whom and under what circumstances a refund may be paid in respect of excise tax paid on diesel fuel that is used exclusively as heating oil or to generate electricity, other than to generate electricity in or by a vehicle, including a conveyance attached to a vehicle, of any mode of transportation.

Existing paragraph 68.01(1)(a) provides that, in the case where a vendor delivers diesel fuel to a purchaser for use exclusively as heating oil, if excise tax has been paid in respect of the diesel fuel, an application for a refund may be made. The refund may be paid:

- to the vendor, if the vendor applies for the payment, if the purchaser certifies that the diesel fuel is for use exclusively as heating oil and if the vendor reasonably believes that the purchaser will use the diesel fuel exclusively as heating oil; or

- to the purchaser, if the purchaser applies for the payment, if the purchaser uses the diesel fuel as heating oil and if no application in respect of the diesel fuel can be made by the vendor.

In cases where excise tax-paid diesel fuel is used by a purchaser to generate electricity (other than to generate electricity in or by a vehicle, including a conveyance attached to a vehicle, of any mode of transportation), which is a non-taxable use under paragraph 23(8)(c) of the Act, existing subsection 68.01(1) does not permit the vendor to apply for a refund of excise tax. Instead, the purchaser can make an application for a refund of excise tax under paragraph 68.01(1)(b).

Amended paragraph 68.01(1)(a) expands the refund regime to allow a vendor to apply for a refund where a purchaser will use excise tax-paid diesel fuel to generate electricity (other than in or by a vehicle, including a conveyance attached to the vehicle, of any mode of transportation). For such a refund to be payable, new subparagraph 68.01(1)(a)(i.1) sets out the following four criteria: the quantity of diesel fuel delivered by the vendor to the purchaser must be at least 1,000 litres; the vendor must apply for the refund; the purchaser must certify that the diesel fuel is to be used exclusively to generate electricity (other than to generate electricity in or by a vehicle, including a conveyance attached to a vehicle, of any mode of transportation); and, the vendor must reasonably believe that the purchaser will use the diesel fuel exclusively to generate electricity (other than to generate electricity in or by a vehicle, including a conveyance attached to a vehicle, of any mode of transportation).

If a vendor cannot make an application for the refund because the relevant criteria are not satisfied, then the purchaser may make an application pursuant to paragraph 68.01(1)(b) (see commentary for the amendment to paragraph 68.01(1)(b) below).

This amendment comes into force on royal assent.

Payment to end-users – diesel fuel

ETA
68.01(1)(b)

Existing paragraph 68.01(1)(b) provides that if excise tax has been paid in respect of diesel fuel, an application may be made and a refund may be paid to a purchaser that uses the diesel fuel to generate electricity (unless the diesel fuel is used in or by a vehicle, including a conveyance attached to a vehicle, of any mode of transportation).

Pursuant to the addition of subparagraph 68.01(1)(a)(i.1), paragraph 68.01(1)(b) is amended to limit the ability of a purchaser to apply for a refund in respect of diesel fuel used to generate electricity. Amended paragraph 68.01(1)(b) allows a purchaser to make an application for the refund only if no application under new subparagraph 68.01(a)(i.1) in respect of the diesel fuel the vendor can be made by the vendor.

This amendment comes into force on royal assent.

Timing of application

ETA
68.01(3)(a)

Existing subsection 68.01(3) of the Act provides that no payment shall be made to a vendor described in subparagraph 68.01(1)(a)(i) unless the vendor applies for the payment within two years of selling the diesel fuel to the purchaser, and that no payment may be made to a purchaser described in subparagraph 68.01(a)(ii) or paragraph 68.01(1)(b) unless the purchaser applies for the payment within two years of the purchase.

Paragraph 68.01(3)(a) is amended to also provide that no payment may be made to a vendor described in new subparagraph 68.01(1)(a)(i.1) unless the vendor applies for the payment within two years of selling the diesel fuel to the purchaser.

This amendment comes into force on royal assent.

Clause 2

Holding corporations and takeovers

ETA
186

Section 186 of the Act sets out rules designed to enable registrants investing in related corporations that are engaged in commercial activities to claim input tax credits in respect of the shares or indebtedness of those corporations or related holding corporations.

Section 186 is amended to add new subsection 186(0.1) and to amend subsections 186(1), (2) and (3).

Operating corporation

ETA
186(0.1)

New subsection 186(0.1) provides an interpretation rule for the purposes of amended section 186 that sets out the test for determining if a particular corporation is an "operating corporation of another corporation". This interpretation rule is used in determining if the other corporation is entitled to benefit from the deeming rules in amended subsections 186(1) and (2) (see commentary below on those subsections), provided that the other conditions of those subsections are met.

New subsection 186(0.1) provides that a particular corporation is, at a particular time, an operating corporation of another corporation if two conditions are met at the particular time. The first condition is satisfied if the particular corporation is related (within the meaning of subsection 126(2) of the Act) to the other corporation. The second condition is satisfied if all or substantially all of the property of the particular corporation is property that was last manufactured, produced, acquired or imported by the particular corporation for consumption, use or supply by the particular corporation exclusively in the course of its commercial activities (within the meaning of subsection 123(1) of the Act).

New subsection 186(0.1) applies to any acquisition, importation or bringing into a participating province of property or a service after Announcement Date.

Input tax credit

ETA
186(1)

Existing subsection 186(1) applies when a corporation (referred to in this subsection as the "the parent") acquires, imports or brings into a participating province a property or a service for consumption or use in relation to the shares or indebtedness of another corporation that meets certain conditions. If the conditions of subsection 186(1) are met, the parent is deemed to have acquired or imported that property or service, or to have brought it into the participating

province, in the course of a commercial activity of the parent. This enables the parent to claim input tax credits in respect of that property or service.

Two amendments are made to subsection 186(1).

The first amendment to subsection 186(1) is made to paragraph 186(1)(b), which contains a "commercial operating corporation property test" that the other corporation must meet in order for the parent to benefit from the rule in subsection 186(1). Under existing subsection 186(1), this test must be applied at the time that tax in respect of the acquisition, importation or bringing in becomes payable, or is paid without having become payable, by the parent. This test requires that, at that time, all or substantially all of the property of the other corporation is property that was last acquired or imported by the other corporation for consumption, use or supply by the other corporation exclusively in the course of its commercial activities.

Paragraph 186(1)(b) is amended to provide that the other corporation can meet the "commercial operating corporation property test" at that time if all or substantially all of its property is property that was last manufactured, produced, acquired or imported by it for consumption, use or supply by the other corporation exclusively in the course of its commercial activities.

This first amendment to subsection 186(1) applies to any acquisition, importation or bringing into a participating province of property or a service on or before Announcement Date in respect of which tax is payable or is paid without having become payable. In respect of any acquisition, importation or bringing into a participating province of property or a service after Announcement Date, this amendment to the "commercial operating corporation property test" is instead incorporated into the term "operating corporation" that is defined in new subsection 186(0.1) (see commentary for that subsection) and through that term incorporated into subsection 186(1) as amended by the second amendment, which is described below.

The second amendment to subsection 186(1) provides greater precision as to the application of the deeming rule contained in the subsection.

Subsection 186(1), as amended by the second amendment, applies to the acquisition, importation or bringing into a participating province of a particular property or service by a parent at a particular time if all of the following conditions are met at the particular time:

- the parent is a registrant (as defined in subsection 123(1)) and is a corporation resident in Canada (within the meaning of paragraph 132(1)(a) of the Act);

- a particular corporation is an operating corporation of the parent (within the meaning of new subsection 186(0.1)); and

- subsection 186(2) does not apply to the acquisition, importation or bringing in of the particular property or service.

If these conditions are met, amended subsection 186(1) provides that the parent is deemed, for the purpose of determining an input tax credit of the parent, to have acquired or imported the particular property or service or brought it into the participating province, as the case may be, for

use in the course of commercial activities of the parent, but only to the extent that paragraph 186(1)(a), (b) or (c) describes the acquisition, importation or bringing in.

Paragraph 186(1)(a) describes cases where the parent acquires or imports the particular property or service, or brings it into the participating province, for any of the following purposes:

- the parent selling or otherwise disposing of, purchasing or otherwise obtaining, or holding shares of the capital stock, or indebtedness, of the particular corporation; or

- the particular corporation redeeming, issuing or converting or otherwise modifying shares of the capital stock, or indebtedness, of itself.

This applies, for example, if a parent acquires property in part for the purpose of purchasing common shares of a particular corporation that is an operating corporation of the parent. In that example, the parent would, for the purposes of claiming an input tax credit, be deemed to have acquired the property in commercial activities of the parent to the extent that the property was acquired for that purpose, provided that all the conditions of subsection 186(1) are met.

Paragraph 186(1)(b) describes cases where the parent acquires or imports the particular property or service, or brings it into the participating province, and the following conditions are met:

- the acquisition, importation or bringing into the participating province by the parent is for the purpose of issuing or selling shares of the capital stock, or indebtedness, of the parent;

- the parent transfers to the particular corporation (i.e., an operating corporation of the parent corporation) the proceeds from the issuance or sale. This transfer is made either by lending money to the particular corporation or by purchasing or otherwise obtaining from the particular corporation shares of the capital stock, or indebtedness, of the particular corporation; and

- those proceeds are to be used by the particular corporation exclusively in the course of its commercial activities.

For example, consider a case where a parent acquires legal services for the purpose of issuing bonds, which generates $1,000,000 in proceeds for the parent. The parent then transfers $800,000 of those proceeds to an operating corporation of the parent through the purchase of common shares of the operating corporation. From that transfer, $750,000 of the $800,000 are for use by the operating corporation to purchase equipment used exclusively in the course of its commercial activities and the remaining $50,000 invested in money market securities.

In that case, for the purposes of the parent claiming an input tax credit in respect of the legal services, paragraph 186(1)(b) would apply to deem the extent of the use of the legal services in commercial activities of the parent to be 75 per cent. This would be dependent on all the conditions of subsection 186(1) being met.

Paragraph 186(1)(c) only applies if, at the particular time the parent acquired, imported or brought into the participating province the particular property or service in question, the parent satisfies a property test. This property test is met if all or substantially all (i.e., 90 per cent or

more) of the property of the parent is shares of the capital stock of operating corporations of the parent, indebtedness of operating corporations of the parent, or a combination of such shares or indebtedness.

If the property test is satisfied, paragraph 186(1)(c) describes cases where the parent acquires or imports the particular property or service, or brings it into the participating province, for the purpose of carrying on, engaging in or conducting an activity of the parent other than an activity described in subparagraphs 186(1)(c)(i) or (ii).

Subparagraph 186(1)(c)(i) describes an activity that is primarily in respect of shares of the capital stock, or indebtedness, of a person that is neither the parent nor an operating corporation of the parent. For example, consider a case where a parent that satisfies the property test and that acquires investment management services for the purpose of investing in shares generally (i.e., not limited to shares of the parent or of operating corporations of the parent). In that case, because the investment management services were acquired for the purpose of carrying on an activity described in paragraph 186(1)(c)(i), paragraph 186(1)(c) would not deem the services to have been acquired for use in the course of commercial activities of the parent.

Subparagraph 186(1)(c)(ii) describes an activity that is carried on, engaged in or conducted in the course of making an exempt supply by the parent. However, excluded from subparagraph 186(1)(c)(ii) is an activity that is a financial service (as defined in subsection 123(1), meaning that the activity must be described in any of paragraphs (a) to (m) of the definition and not be excluded by any of paragraphs (n) to (t) of the definition) and that is any of the following activities:

- the lending or borrowing of shares of the capital stock, or indebtedness, of an operating corporation of the parent,

- the issue, granting, allotment, acceptance, endorsement, renewal, processing, variation, transfer of ownership or repayment of shares of the capital stock, or indebtedness, of the parent or an operating corporation of the parent,

- the provision, variation, release or receipt of a guarantee, acceptance or indemnity in respect of shares of the capital stock, or indebtedness, of the parent or an operating corporation of the parent,

- the payment or receipt of money as dividends (other than patronage dividends), interest, principal, benefits, or similar receipt or payment of money in respect of shares of the capital stock, or indebtedness, of the parent or an operating corporation of the parent, or

- the underwriting of shares of the capital stock, or indebtedness, of an operating corporation of the parent.

For example, consider a parent that satisfies the property test and acquires a computer to be used 80 per cent to make exempt supplies of residential units and 20 per cent to pay dividends to its shareholders. In that case, paragraph 186(1)(c) would deem the computer to be acquired 20 per cent for use in the course of commercial activities of the parent. This is because 20 per cent is the

extent to which it is acquired for use in paying dividends and neither of the exclusions described in subparagraphs 186(1)(c)(i) and (ii) would apply to that use. However, paragraph 186(1)(c) would not deem the computer to be acquired for use in the course of commercial activities of the parent to the remaining 80 per cent extent that it is acquired for use in making exempt supplies of residential units, as this use is excluded by subparagraph 186(1)(c)(ii).

The second amendment to subsection 186(1) applies to any acquisition, importation or bringing into a participating province of property or a service after Announcement Date.

Takeover fees

ETA
186(2)

Existing subsection 186(2) applies in situations where a corporation (referred to in this subsection as the "purchaser") acquires or proposes to acquire all or substantially all of the voting shares of the capital stock of another corporation that is engaged exclusively in commercial activities (the "target corporation"). This enables the purchaser to claim input tax credits for property or services that it acquires in relation to the take-over or proposed take-over.

Existing paragraph 186(2)(b) contains a "commercial operating corporation property test" that requires that all or substantially all of the property of the target corporation to be property that was acquired or imported by the target corporation for consumption, use or supply by it exclusively in the course of its commercial activities.

Paragraph 186(2)(b) is amended to provide that the target corporation can meet this "commercial operating corporation property test" if all or substantially all of its property is property that was last manufactured, produced, acquired or imported by it for consumption, use or supply by it exclusively in the course of its commercial activities.

The amendment to paragraph 186(2)(b) applies to any acquisition, importation or bringing into a participating province of property or a service in respect of which tax is payable or is paid without having become payable.

Shares, etc., held by corporation

ETA
186(3)

Existing subsection 186(3) applies in cases where a parent corporation holds shares or indebtedness of a particular corporation that is related to the parent. Existing subsection 186(3) provides that if, at a particular time, the particular corporation meets a "commercial operating corporation property test", its shares and indebtedness held by the parent are treated as property acquired for use exclusively by the parent in commercial activities. The existing "commercial operating corporation property test" requires that, at the particular time, all or substantially all of the property of the particular corporation is property that was acquired or imported by the particular corporation for consumption, use or supply by it exclusively in the course of its commercial activities.

Two amendments are made to subsection 186(3).

The first amendment to subsection 186(3) provides that the particular corporation can meet the "commercial operating corporation property test" at the particular time if all or substantially all of its property is property that was last manufactured, produced, acquired or imported by it for consumption, use or supply by the particular corporation exclusively in the course of its commercial activities.

The first amendment to subsection 186(3) applies to any acquisition, importation or bringing into a participating province of property or a service on or before Announcement Date in respect of which tax is payable or is paid without having become payable.

The second amendment to subsection 186(3) is consequential to the enactment of new subsection 186(0.1). Subsection 186(3) is amended to remove the "commercial operating corporation property test" and the requirement that the particular corporation be related to the parent corporation. Instead, those two requirements are incorporated into subsection 186(3) by reference to the term "operating corporation of a corporation" that is defined by new subsection 186(0.1).

The second amendment to subsection 186(3) applies to any acquisition, importation or bringing into a participating province of property or a service after Announcement Date.

Clause 3

Registration permitted

ETA
240(3)(d)

Subsection 240(3) of the Act permits persons engaged in a commercial activity (as defined in subsection 123(1) of the Act) in Canada and certain other specified persons to apply to become registered for purposes of the GST/HST. Existing paragraph 240(3)(d) generally allows a particular corporation resident in Canada to register where it is deemed by subsection 186(1) or (2) of the Act to have acquired, imported or brought into a participating province property or a service in the course of its commercial activities. To qualify to register under paragraph 240(3)(d), the particular corporation must either (1) own shares of the capital stock, or hold indebtedness of, another corporation that is related to the particular corporation and that meets a "commercial operating corporation property test"; or (2) be acquiring or proposing to acquire all or substantially all of the voting shares of another corporation that meets this commercial operating corporation property test. This commercial operating corporation test in existing paragraph 240(3)(d) requires that all or substantially all of the property of the other corporation is property that was acquired or imported by the other corporation for consumption, use or supply by the other corporation exclusively in the course of its commercial activities.

Paragraph 240(3)(d) is amended to provide that the other corporation can meet the "commercial operating corporation property test" if all or substantially all of its property is property that was last manufactured, produced, acquired or imported by it for consumption, use or supply by the other corporation exclusively in the course of its commercial activities.

The amendment to paragraph 240(3)(d) applies in respect of any application for registration for the purposes of Part IX of the Act.

Clause 4

Rebate for printed books

ETA
259.1(2)

Existing subsection 259.1(2) of the Act provides authority for the Minister of National Revenue to pay to specified persons (e.g., public libraries, educational institutions, as well as certain literacy organizations prescribed by regulations) rebates equal to the goods and services tax (GST) or the federal component of the harmonized sales tax (HST) payable in respect of their acquisition or importations of printed books and other specified property (e.g., audio recordings of printed books). The terms "specified person" and "specified property" are defined in subsection 259.1(1) of the Act.

An exception in subsection 259.1(2) generally provides that the rebate is not available if the specified person has acquired or imported the property for the purpose of supply by way of sale. The term "sale" is defined in subsection 123(1) of the Act and includes any transfer of ownership of property, including giving the property away for free. The exception is more narrow in the case of specified property acquired or imported by a charity or qualifying non-profit organization whose primary purpose is the promotion of literacy and that is prescribed under paragraph (f) of the definition "specified person" in subsection 259.1(1). Such organizations may remain eligible for the rebate if specified property is acquired or imported to be given away for free.

A recent court decision held that, where printed books were acquired by a university for the purpose of making a single supply of educational services (i.e., the books and instruction services were provided as part of a single all-inclusive fee for a course), the university could not be considered to acquire the books for the purpose of supply by way of sale, since it did not make a separate supply of the books. Accordingly, the exception to the rebate under subsection 259.1(2) was found not to apply.

Paragraphs 259.1(2)(a) and (b) are amended to clarify that the exception to the rebate applies whether specified property is acquired or imported for the purpose of making a supply by way of sale of the specified property or for the purpose of transferring ownership of the specified property in the course of supplying another property or a service.

This amendment applies to any acquisition or importation of property in respect of which tax becomes payable after Announcement Day without having been paid on or before that day or in respect of which tax is paid after Announcement Day without having become payable on or before that day.

Clause 5

Time period not to count

ETA
289.2

New section 289.2 of the Act extends the reassessment period when a person makes an application for judicial review of a requirement for information (other than a requirement for foreign based information or document under section 292 of the Act) or when a person files a notice of appearance or otherwise challenges a compliance order. Section 289.2 provides that the period of time that elapses between the application for review of a requirement for information or the filing of a notice of appearance, or otherwise challenging the application for a compliance order, and the time either the application for judicial review or the application to obtain the compliance order is disposed of, will not be counted toward the statutory limit for making tax assessments.

New section 289.2 comes into force on royal assent.

Clause 6

Time period not to count

ETA
292(7)

Under section 292 of the Act, the Minister of National Revenue may, by notice and subject to judicial review, require any person resident in Canada or a non-resident person that carries on business in Canada to provide any "foreign-based information or document", as defined in subsection 292(1).

Existing subsection 292(7) of the Act provides that the period of time that elapses between an application for the review and final disposition of the issue does not count towards the limitation period for making assessments under section 296 or 297 of the Act nor in the time permitted for the production of the information or document under section 292.

To ensure consistency with the wording of new section 289.2 of the Act, which extends the limitation period upon challenges to compliance orders and requirements for information that do not involve foreign based information or documents, subsection 292(7) is amended to clarify that the period of time that does not count towards the limitation period for making assessments, or in the time permitted to produce the information or document, lasts until final disposition of the issue. For further information, see the commentary for section 289.2.

This amendment comes into force on royal assent.

Clause 7

Disclosure of personal information

ETA
295(5)

Subsection 295(5) of the Act authorizes the communication of confidential information to government officials for limited purposes.

Paragraph 295(5)(d.1) is amended by adding new subparagraphs 295(5)(d.1)(ii) and (iii). New subparagraph 295(5)(d.1)(ii) is added to permit an official to provide confidential information, or allow the inspection of or access to confidential information, under and solely for the purposes of an order made under subsection 462.48(3) of the *Criminal Code*. New subparagraph 295(5)(d.1)(iii) is added to permit an official to provide confidential information, or allow the inspection of or access to confidential information, under and solely for the purposes of an order made under the *Mutual Legal Assistance in Criminal Matters Act*, with respect to an investigation or prosecution relating to an act or omission that, if it had occurred in Canada, would constitute an offence for which an order could be obtained under subsection 462.48(3) of the *Criminal Code*, in response to a request made pursuant to

- an administrative arrangement entered into under section 6 of the *Mutual Legal Assistance in Criminal Matters Act*, or

- a bilateral agreement for mutual legal assistance in criminal matters to which Canada is a party.

Paragraph 295(5)(n) permits an official to provide confidential information, or allow the inspection of or access to confidential information, solely for the purposes of a provision contained in a "listed international agreement", as defined in subsection 123(1) of the Act. This paragraph is amended to also permit an official to provide confidential information, or allow the inspection of or access to confidential information, solely for the purposes of a provision contained in a "tax treaty", as defined in subsection 248(1) of the *Income Tax Act*.

These amendments come into force on royal assent.

Excise Act, 2001

Clause 8

Time period not to count

EA, 2001
209.1

New section 209.1 of the *Excise Tax, 2001* (the Act) extends the reassessment period when a person makes an application for judicial review of a requirement for information) other than a requirement for foreign based information or record under section 210 of the Act) or when a

person files a notice of appearance or otherwise challenges a compliance order. Section 209.1 provides that the period of time that elapses between the application for review of a requirement for information or the filing of a notice of appearance, or otherwise challenging the application for a compliance order, and the time either the application for judicial review or the application to obtain the compliance order is disposed of, will not be counted toward the statutory limit for making tax assessment.

New section 209.1 comes into force on royal assent.

Clause 9

Time period not to count

EA, 2001
210(7)

Under section 210 of the Act, the Minister of National Revenue may, by notice and subject to judicial review, require a person resident in Canada, or a non-resident carrying on business in Canada, to produce information or records located outside Canada relevant to the administration or enforcement of the Act.

Existing subsection 210(7) provides that the period of time that elapses between an application for review and final disposition of the issue does not count in the statutory limit for making assessments under section 188 or 189 of the Act nor in the time permitted for the production of the information or record under section 210.

To ensure consistency with the wording of new section 209.1 of the Act, which extends the statutory limitation period on challenges to compliance order and requirement for information that do not involve foreign based information or record, subsection 210(7) is amended to clarify that the period of time that does not count towards the statutory limit or in the time permitted to produce the information or record, lasts until final disposition of the issue. For further information, see the commentary for section 210.

This amendment comes into force on royal assent.

Clause 10

Disclosure of personal information

EA, 2001
211(6)

Subsection 211(6) of the Act authorizes the communication of confidential information to government officials for limited purposes.

Paragraph 211(6)(d.1) is amended by adding new subparagraphs 211(6)(d.1)(ii) and (iii). New subparagraph 211(6)(d.1)(ii) is added to permit an official to provide confidential information, or allow the inspection of or access to confidential information, under and solely for the purposes of

an order made under subsection 462.48(3) of the *Criminal Code*. New subparagraph 211(6)(d.1)(iii) is added to permit an official to provide confidential information, or allow the inspection of or access to confidential information, under and solely for the purposes of an order made under the *Mutual Legal Assistance in Criminal Matters Act*, with respect to an investigation or prosecution relating to an act or omission that, if it had occurred in Canada, would constitute an offence for which an order could be obtained under subsection 462.48(3) of the *Criminal Code*, in response to a request made pursuant to

- an administrative arrangement entered into under section 6 of the *Mutual Legal Assistance in Criminal Matters Act*, or

- a bilateral agreement for mutual legal assistance in criminal matters to which Canada is a party.

Paragraph 211(6)(l) permits an official to provide confidential information, or allow the inspection of or access to confidential information, solely for the purposes of a provision contained in a "listed international agreement", as defined in section 2 of the Act. This paragraph is amended to also permit an official to provide confidential information, or allow the inspection of or access to confidential information, solely for the purposes of a provision contained in a "tax treaty", as defined in subsection 248(1) of the *Income Tax Act*.

These amendments come into force on royal assent.

Air Travellers Security Charge Act

Clause 11

Time period not to count

ATSCA
38(6)

Under section 38 of the *Air Travellers Security Charge Act* (the Act), the Minister of National Revenue may, by notice and subject to judicial review, require a person resident in Canada or a non-resident carrying on business in Canada to produce information or records relevant to the administration or enforcement of the Act.

Existing subsection 38(6) of the *Air Travellers Security Charge Act* (the Act) provide that the period of time that elapses between the application for review and final disposition of the issue does not count towards the statutory limit for making assessments under section 42 of the Act nor in the time permitted for the production of the information or record under section 38.

Subsection 38(6) is amended to clarify that the period of time that does not count toward the statutory limit or in the time permitted to produced the information or record lasts until final disposition of the issue. In addition, the French version of this subsection is also amended to ensure better consistency with other federal statutes.

These amendments come into force on royal assent.

New Harmonized Value-added Tax System Regulations, No. 2

Clause 12

Rebate for printed books

New Harmonized Value-added Tax System Regulations, No. 2
47.1

Existing section 47.1 of the *New Harmonized Value-added Tax System Regulations, No. 2* modifies subsection 259.1(2) of the *Excise Tax Act* (the Act) to adapt that subsection to the new harmonized value-added tax system. This adaptation provides that, in general, the provincial component of the harmonized sales tax (HST) may be included in determining the printed book rebate under that subsection. It should be noted that the printed book rebate is not available for the provincial component of the HST in circumstances where relief is already provided by means of a provincial point-of-sale rebate for the provincial component of the HST.

Paragraphs 259.1(2)(a) and (b) of the Act, as adapted by section 47.1, are amended consequential to amendments to those paragraphs in the Act itself to maintain consistency between the wording of those paragraphs and their adapted versions.

This amendment applies to any acquisition, importation or bringing into a participating province in respect of which tax becomes payable after Announcement Day without having been paid on or before that day or in respect of which tax is paid after Announcement Day without having become payable on or before that day.