

Legislative Proposals Relating to Income Tax and Other Legislation

Income Tax Act and Income Tax Regulations

Canada Workers Benefit – Improving Access

1 (1) Paragraph (a) of the definition *adjusted net income* in subsection 122.7(1) of the *Income Tax Act* (the “Act”) is repealed.

(2) The definition *working income* in subsection 122.7(1) of the Act is replaced by the following:

working income, of an individual for a taxation year, means the total of

- (a) the total of all amounts each of which would, if this Act were read without reference to section 8, be the individual’s income for the taxation year from an office or employment;
- (b) all amounts that are included because of paragraph 56(1)(n) or (o) or subparagraph 56(1)(r)(v) in computing the individual’s income for a period in the taxation year; and
- (c) the total of all amounts each of which is the individual’s income for the taxation year from a business carried on by the individual otherwise than as a specified member of a partnership. (*revenu de travail*)

(3) Section 122.7 of the Act is amended by adding the following after subsection (1):

Optional amounts

(1.1) An individual may determine the total amount for the definition *working income* for both the individual and the individual’s eligible spouse, if applicable, for a taxation year as if the Act were read without reference to paragraph 81(1)(a) and subsection 81(4) and if so, the individual shall determine the total amount for the definition *adjusted net income* for both the individual and the individual’s eligible spouse, if applicable, for the taxation year as if the Act were read without reference to paragraph 81(1)(a) and subsection 81(4).

(4) The portion of subsection 122.7(2) of the Act before the formula is replaced by the following:

Deemed payment on account of tax

(2) Subject to subsections (4) and (5), an eligible individual for a taxation year who files a return of income for the taxation year is deemed to have paid, at the end of the taxation year, on account of tax payable under this Part for the taxation year, an amount equal to the amount, if any, determined by the formula

(5) Subsection 122.7(5) of the Act is replaced by the following:

Only one eligible individual

(5) If an eligible individual has an eligible spouse for a taxation year and both those individuals would be, but for this subsection, eligible individuals for the purposes of subsection (2) in respect of the taxation year,

- (a) if the individuals agree on which individual is the eligible individual for the taxation year, only that individual shall be an eligible individual for the purposes of subsection (2) in respect of the taxation year; and
- (b) in any other case, only the individual that the Minister designates is the eligible individual for the purposes of subsection (2) in respect of the taxation year.

(6) Subsection 122.7(10) of the Act is replaced by the following:

Special rules for eligible dependant

(10) For the purpose of applying subsections (2) and (3), if an individual (referred to in this subsection as the “child”) would be, but for this subsection, an eligible dependant of more than one eligible individual for a taxation year, the child is deemed only to be an eligible dependant of

- (a)** if the individuals agree, the agreed upon individual; and
- (b)** in any other case, the individual designated by the Minister.

(7) Subsections (1) to (6) come into force on January 1, 2019.

2 (1) The *Income Tax Regulations* (the “Regulations”) are amended by adding the following after section 202:

Requirement to file

203 Every institution that is a *designated educational institution* (as defined in subsection 118.6(1) of the Act) because of paragraph (a) of that definition shall make an information return in prescribed form in respect of each individual enrolled at that institution who is a *qualifying student* (as defined in subsection 118.6(1)) for a month in a taxation year.

(2) Subsection (1) applies to the 2019 and subsequent taxation years.

3 (1) The table in subsection 205(3) of the Regulations is amended by adding the following in alphabetical order:

Tuition and Enrolment Certificate

(2) Subsection (1) comes into force on January 1, 2019.

4 (1) The table in subsection 205.1(1) of the Regulations is amended by adding the following in alphabetical order:

Tuition and Enrolment Certificate

(2) Subsection (1) comes into force on January 1, 2019.

5 (1) Subsection 209(1) of the Regulations is replaced by the following:

209 (1) A person who is required by section 200, 201, 202, 203, 204, 212, 214, 215, 217 or 218, subsection 223(2) or section 228, 229, 230, 232, 233 or 234 to make an information return shall forward to each taxpayer to whom the return relates two copies of the portion of the return that relates to that taxpayer.

(2) Subsection 209(5) of the Regulations is replaced by the following:

(5) A person may provide a Statement of Remuneration Paid (T4) information return or a Tuition and Enrolment Certificate, as required under subsection (1), as a single document in an electronic format (instead of the two copies required under subsection (1)) to the taxpayer to whom the return relates, on or before the date on which the return is to be filed with the Minister, unless

- (a)** the specified criteria referred to in section 221.01 of the Act are not met;
- (b)** the taxpayer has requested that the information return be provided in paper format; or
- (c)** at the time the return is required to be issued,

- (i) if the return is a T4, the taxpayer is on extended leave or is no longer an employee of the person, or
- (ii) the taxpayer cannot reasonably be expected to have access to the information return in electronic format.

(3) Subsections (1) and (2) come into force on January 1, 2019.

Deductibility of Employee Contributions to the Enhanced Portion of the Quebec Pension Plan

6 (1) Clause 60(e)(ii)(A) of the Act is replaced by the following:

(A) the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under subsection 10(1.1) or (1.2) of the *Canada Pension Plan* or as a like contribution under a *provincial pension plan*, as defined in section 3 of that Act, and

(2) Subparagraph 60(e.1)(i) of the Act is replaced by the following:

(i) the total of all amounts each of which is an amount payable by the taxpayer for the year as an employee's contribution under subsection 8(1.1) or (1.2) of the *Canada Pension Plan* or as a like contribution under a *provincial pension plan*, as defined in section 3 of that Act, and

(3) Subsections (1) and (2) come into force on January 1, 2019.

Reporting Requirements for Trusts

7 (1) The portion of subsection 150(1.1) of the Act before paragraph (a) is replaced by the following:

Exception

(1.1) Subject to subsection (1.2), subsection (1) does not apply to a taxation year of a taxpayer if

(2) Section 150 of the Act is amended by adding the following after subsection (1.1):

Exception trusts

(1.2) Subsection (1.1) does not apply to a taxation year of a trust if the trust is resident in Canada and is an express trust, or for civil law purposes a trust other than a trust that is established by law or by judgement, unless the trust

(a) had been in existence for less than three months at the end of the year;

(b) holds assets with a total fair market value that does not exceed \$50,000 throughout the year, if the only assets held by the trust throughout the year are one or more of

(i) cash,

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

(iii) a share, debt obligation or right listed on a designated stock exchange,

(iv) a share of the capital stock of a mutual fund corporation,

(v) a unit of a mutual fund trust, and

(vi) an interest in a related segregated fund (within the meaning assigned by paragraph 138.1(1)(a));

(c) is required under the relevant rules of professional conduct or the laws of Canada or a province to hold funds for the purposes of the activity that is regulated under those rules or laws, provided the trust is not maintained as a separate trust for a particular client or clients;

- | (d) is a registered charity;
- | (e) is a club, society or association described in paragraph 149(1)(l);
- | (f) is a mutual fund trust;
- | (g) is, for greater certainty, a related segregated fund trust, within the meaning assigned by paragraph 138.1(1)(a);
- | (h) is prescribed to be a master trust;
- | (i) is, for greater certainty, a graduated rate estate;
- | (j) is a *qualified disability trust*, as defined in subsection 122(3);
- | (k) is an employee life and health trust;
- | (l) is a trust described under paragraph 81(1)(g.3);
- | (m) is a trust under or governed by
 - | (i) a deferred profit sharing plan,
 - | (ii) a pooled registered pension plan,
 - | (iii) a registered disability savings plan,
 - | (iv) a registered education savings plan,
 - | (v) a registered pension plan,
 - | (vi) a registered retirement income fund,
 - | (vii) a registered retirement savings plan, or
 - | (viii) a tax-free savings account; or
- | (n) a cemetery care trust or a trust governed by an eligible funeral arrangement.

(3) Subsection (1) and (2) apply to taxation years that end after December 30, 2021.

8 (1) Section 163 of the Act is amended by adding the following after subsection (4):

False statement or omission — trust return

- | (5) A person or partnership is liable to a penalty if the person or partnership
- | (a) knowingly or under circumstances amounting to gross negligence
 - | (i) makes — or participates in, assents to or acquiesces in, the making of — a false statement or omission in a return of income of a trust that is not subject to one of the exceptions listed in paragraphs 150(1.2)(a) to (n) for a taxation year, or
 - | (ii) fails to file a return described in subparagraph (i); or
 - | (b) fails to comply with a demand under subsection 150(2) or 231.2(1) to file a return described in subparagraph (a)(i).

False statement or omission — trust return

- | (6) The amount of the penalty to which the person or partnership is liable under subsection (5) is equal to the greater of

(a) \$2,500; and

(b) 5% of the highest amount at any time in the year that is equal to the total fair market value of all the property held by the trust referred to in subsection (5) at that time.

(2) Subsection (1) applies to taxation years that end after December 30, 2021.

9 (1) The Regulations are amended by adding the following after section 204.1:

Additional reporting trusts

204.2 (1) For the purposes of subsection 150(1) of the Act, every person having the control of, or receiving income, gains or profits in a fiduciary capacity, or in a capacity analogous to a fiduciary capacity, shall provide information in respect of a trust, unless the trust is subject to one of the exceptions listed in paragraphs 150(1.2)(a) to (n) of the Act, that includes the name, address, date of birth (in the case of an individual other than a trust), jurisdiction of residence and *TIN* (as defined in subsection 270(1) of the Act) for each person who, in the year,

(a) is a trustee, beneficiary (subject to subsection (2)) or *settlor* (as defined in subsection 17(15) of the Act) of the trust; or

(b) has the ability (through the terms of the trust or a related agreement) to exert influence over trustee decisions regarding the appointment of income or capital of the trust.

(2) For the purposes of subsection (1), the requirement in paragraph (1)(a) to provide required information in respect of beneficiaries of a trust in a return is met if

(a) the required information is provided in respect of each beneficiary of the trust whose identity is known or ascertainable with reasonable effort by the person making the return at the time of filing the return; and

(b) in respect of beneficiaries not described in paragraph (a), the person making the return provides sufficiently detailed information to determine with certainty whether any particular person is a beneficiary of the trust.

(2) Subsection (1) applies to taxation years that end after December 30, 2021.

10 (1) The portion of subsection 4802(1.1) of the Regulations before paragraph (a) is replaced by the following:

Master trust

(1.1) For the purposes of subparagraph 127.55(f)(iii) and paragraphs 149(1)(o.4) and 150(1.2)(h) of the Act, a trust is prescribed at any particular time if, at all times after its creation and before the particular time,

(2) Subsection (1) applies to taxation years that end after December 30, 2021.

Artificial Losses Using Equity-Based Financial Arrangements

11 (1) Paragraph 112(2.31)(b) of the Act is replaced by the following:

(b) the taxpayer establishes that, throughout the particular period, no tax-indifferent investor or group of tax-indifferent investors, each member of which is affiliated with every other member, has all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share.

(2) Subparagraph 112(2.32)(a)(ii) of the Act is replaced by the following:

(ii) all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31) has not been eliminated and cannot reasonably be expected by it to be eliminated;

(3) Clause 112(2.32)(b)(iii)(B) of the Act is replaced by the following:

(B) all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31) has not been eliminated and cannot reasonably be expected by it to be eliminated;

(4) Clause 112(2.32)(c)(iii)(B) of the Act is replaced by the following:

(B) all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31) has not been eliminated and cannot reasonably be expected by it to be eliminated;

(5) Subsection 112(2.33) of the Act is replaced by the following:

End of particular period

(2.33) If, at a time during a particular period referred to in subsection (2.31), a counterparty, specified counterparty, affiliated counterparty or affiliated specified counterparty reasonably expects to become a tax-indifferent investor or — if it has provided a representation described by subparagraph (2.32)(a)(ii) or clause (2.32)(b)(iii)(B) or (c)(iii)(B) in respect of a share — that all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share will be eliminated, the particular period for which it has provided a representation in respect of the share is deemed to end at that time.

(6) Subsections (1) to (5) apply in respect of dividends that are paid or become payable after February 26, 2018.

12 (1) The definition *SLA compensation payment* in subsection 260(1) of the Act is replaced by the following:

SLA compensation payment means an amount paid pursuant to

(a) a securities lending arrangement as compensation for an underlying payment; or

(b) a specified securities lending arrangement as compensation for an underlying payment, including, if the property transferred or lent is described in subparagraph (a)(ii) of the definition *specified securities lending arrangement*, as compensation for a taxable dividend paid on a share described in subparagraph (a)(i) of that definition; (*paiement compensatoire (MPVM)*)

(2) Subsection 260(1) of the Act is amended by adding the following in alphabetical order:

specified securities lending arrangement means an arrangement, other than a securities lending arrangement, under which

(a) a particular person (referred to in this definition as a “transferor”) transfers or lends at any particular time a property to another person (referred to in this definition as a “transferee”) and the property is

(i) a particular share described in paragraph (a) of the definition *qualified security*, or

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

(A) the property is

(I) an interest in a partnership, or

(II) an interest as a beneficiary under a trust, and

(B) all or any part of the fair market value of the property, immediately before the particular time, is derived, directly or indirectly, from a share described in subparagraph (i),

(b) it may reasonably be expected, at the particular time, that the transferee — or a person that does not deal at arm's length with, or is affiliated with, the transferee — will transfer or return after the particular time to the transferor — or a person that does not deal at arm's length with, or is affiliated with, the transferor (referred to in this definition as a “substitute transferor”) — a property that is identical to the property so transferred or lent, and

(c) the transferor's (together with any substitute transferor's) risk of loss or opportunity for gain or profit with respect to the particular property is not changed in any material respect; (*mécanisme de prêt de valeurs mobilières déterminé*)

(3) The portion of subsection 260(5) of the Act before paragraph (a) is replaced by the following:

Where subsection (5.1) applies

(5) Subsection (5.1) applies to a taxpayer for a taxation year in respect of a particular amount (other than an amount received as proceeds of disposition or an amount received by a person under an arrangement where it may reasonably be considered that one of the main reasons for the person entering into the arrangement was to enable the person to receive an SLA compensation payment pursuant to a securities lending arrangement, or a dealer compensation payment, that would be deductible in computing the taxable income, or not included in computing the income, for any taxation year of the person) received by the taxpayer in the taxation year

(4) Paragraph 260(6)(a) of the Act is replaced by the following:

(a) if the taxpayer is a registered securities dealer and the particular amount is deemed by subsection (5.1) to have been received as a taxable dividend, no more than 2/3 of the particular amount (unless, for greater certainty, the particular amount is an amount for which a deduction in computing income may be claimed under subsection (6.1) by the taxpayer); or

(5) The portion of subsection 260(6.1) of the Act before paragraph (a) is replaced by the following:

Deductible amount

(6.1) There may be deducted in computing a corporation's income under Part I from a business or property for a taxation year an amount equal to the lesser of

(6) Subsections (1) to (5) apply in respect of amounts paid or payable, or received or receivable, as compensation for dividends after February 26, 2018. However, subsections (1) to (5) do not apply in respect of amounts paid or payable, or received or receivable, as compensation for dividends after February 26, 2018 and before October 2018, if they are pursuant to a written arrangement entered into before February 27, 2018.

Stop-Loss Rule on Share Repurchase Transactions

13 (1) The description of B in subsection 112(5.2) of the Act is replaced by the following:

B is

(a) if the taxpayer received a dividend under subsection 84(3) in respect of the share, the total determined under subparagraph (b)(ii), and

(b) in any other case, the lesser of

(i) the loss, if any, from the disposition of the share that would be determined before the application of this subsection if the cost of the share to any taxpayer were determined without reference to

(A) paragraphs 87(2)(e.2) and (e.4), 88(1)(c), 138(11.5)(e) and 142.5(2)(b),

(B) subsection 85(1), where the provisions of that subsection are required by paragraph 138(11.5)(e) to be applied, and

(C) paragraph 142.6(1)(d), and

(ii) the total of all amounts each of which is

(A) where the taxpayer is a corporation, a taxable dividend received by the taxpayer on the share, to the extent of the amount that was deductible under this section or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year,

(B) where the taxpayer is a partnership, a taxable dividend received by the taxpayer on the share, to the extent of the amount that was deductible under this section or subsection 115(1) or 138(6) in computing the taxable income or taxable income earned in Canada for any taxation year of members of the partnership,

(C) where the taxpayer is a trust, an amount designated under subsection 104(19) in respect of a taxable dividend on the share, or

(D) a dividend (other than a taxable dividend) received by the taxpayer on the share,

(2) The portion of the description of C in subsection 112(5.2) of the Act after paragraph (b) is replaced by the following:

(c) where the taxpayer is a partnership, a loss of a member of the partnership on a deemed disposition of the share before that time was reduced because of subsection (3.1) or (4), and

(3) The portion of subsection 112(5.21) of the Act before paragraph (a) is replaced by the following:

Subsection (5.2) — excluded dividends

(5.21) A dividend, other than a dividend received under subsection 84(3), shall not be included in the total determined under subparagraph (b)(ii) of the description of B in subsection (5.2) unless

(4) Section 112 of the Act is amended by adding the following after subsection (9.1):

Exception

(9.1) Subsection (8) does not apply for the purpose of paragraph (5.21)(b) in respect of a dividend received on a share, referred to in paragraph (a) of the description of B in subsection (5.2), during a synthetic disposition period of a synthetic disposition arrangement in respect of that share.

(5) Subsections (1) to (4) apply in respect of dispositions that occur after February 26, 2018.

14 (1) Section 142.5 of the Act is amended by adding the following after subsection (3):

Proceeds — mark-to-market property

(4) For greater certainty, if a taxpayer is a financial institution in a taxation year and disposes of a share that is mark-to-market property of the taxpayer for the year, the taxpayer's proceeds from the disposition do not include any amount that would otherwise be proceeds from the disposition to the extent that the amount is deemed by subsection 84(2) or (3) to be a dividend received except to the extent the dividend is deemed by subparagraph 88(2)(b)(ii) not to be a dividend.

(2) Subsection (1) applies in respect of dispositions that occur after February 26, 2018.

At-Risk Rules for Tiered Partnerships

15 (1) Section 96 of the Act is amended by adding the following after subsection (2):

Tiered partnerships

(2.01) For the purposes of this section, a taxpayer includes a partnership.

(2) Subsection 96(2.1) of the Act is amended by striking out “and” at the end of paragraph (d) and by replacing paragraph (e) with the following:

(e) if the taxpayer is not a partnership, be deemed to be the taxpayer's limited partnership loss in respect of the partnership for the year, and

(f) if the taxpayer is a partnership, reduce the taxpayer's share of any loss of the partnership for a fiscal period of the partnership ending in the taxation year of the taxpayer from a business (other than a farming business) or from property.

(3) Section 96 of the Act is amended by adding the following after subsection (2.1):

Tiered partnerships – adjustments

(2.11) The following rules apply to taxation years of a taxpayer that end after February 26, 2018:

(a) for the purpose of applying section 111, the taxpayer's non-capital loss, or limited partnership loss in respect of a partnership, for a preceding taxation year shall be determined as if subsection (2.01) and paragraph (2.1)(f) applied in respect of taxation years that end before February 27, 2018; and

(b) in computing the adjusted cost base to the taxpayer of the taxpayer's interest in a partnership after February 26, 2018, there shall be added an amount equal to the portion of the amount of any reduction because of paragraph (a) in a non-capital loss of the taxpayer that can reasonably be considered to relate to the amount of a loss deducted under subparagraph 53(2)(c)(i) in computing the adjusted cost base of that interest.

(4) Subsections (1) and (2) apply to taxation years that end after February 26, 2018.

Cross-Border Surplus Stripping using Partnerships and Trusts

16 (1) Subparagraph (a)(ii) of the definition *equity amount* in subsection 18(5) of the Act is replaced by the following:

(ii) the average of all amounts each of which is the corporation's contributed surplus (other than any portion of that contributed surplus that arose at a time when the corporation was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) at the beginning of a calendar month that ends in the year, to the extent that it was contributed by a specified non-resident shareholder of the corporation, and

(2) Subsection (1) applies in respect of transactions or events that occur after February 26, 2018.

17 (1) Paragraphs 84(1)(c.1) and (c.2) of the Act are replaced by the following:

(c.1) if the corporation is an insurance corporation, any action by which it converts contributed surplus related to its insurance business (other than any portion of that contributed surplus that arose at a time when it was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) into paid-up capital in respect of the shares of its capital stock,

(c.2) if the corporation is a bank, any action by which it converts any of its contributed surplus that arose on the issuance of shares of its capital stock (other than any portion of that contributed surplus that arose at a time when it was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) into paid-up capital in respect of shares of its capital stock, or

(2) The portion of paragraph 84(1)(c.3) of the Act before subparagraph (ii) is replaced by the following:

(c.3) if the corporation is neither an insurance corporation nor a bank, any action by which it converts into paid-up capital in respect of a class of shares of its capital stock any of its contributed surplus that arose after March 31, 1977 (other than any portion of that contributed surplus that arose at a time when it was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies)

(i) on the issuance of shares of that class or shares of another class for which the shares of that class were substituted (other than an issuance to which section 51, 66.3, 84.1, 85, 85.1, 86 or 87 or subsection 192(4.1) or 194(4.1) applied),

(3) Subsections (1) and (2) apply in respect of transactions or events that occur after February 26, 2018.

18 (1) Section 128.1 of the Act is amended by adding the following after subsection (1.1)

Trusts and partnerships look-through rule

(1.2) For the purposes of this subsection and paragraph (1)(c.1), if at any time shares of the capital stock of a corporation resident in Canada are, or would be based on the assumptions contained in paragraph 96(1)(c), owned by a trust or a partnership (each referred to in this subsection as a “conduit”), each person or partnership with an interest as a beneficiary under the conduit or that is a member of the conduit (each referred to in this subsection as a “holder”), as the case may be, is deemed to own the shares of each class of the capital stock of the corporation that are owned by the conduit the number of which is determined by the formula

$$A \times B/C$$

where

A is the total number of shares of the class of the capital stock of the corporation that is owned by the conduit at that time,

B is the fair market value, at that time, of the holder’s interest in the conduit, and

C is the total fair market value, at that time, of all interests in the conduit.

(2) Subsection (1) applies in respect of transactions or events that occur after February 26, 2018.

19 (1) Subsection 212.1(1) of the Act is replaced by the following:

Non-arm’s length sales of shares by non-residents

212.1 (1) Subsection (1.1) applies if a non-resident person disposes of shares (in this section referred to as the “subject shares”) of any class of the capital stock of a corporation resident in Canada (in this section referred to as the “subject corporation”) to another corporation resident in Canada (in this section referred to as the “purchaser corporation”) with which the non-resident person does not (otherwise than because of a right referred to in paragraph 251(5)(b)) deal at arm’s length and, immediately after the disposition, the subject corporation is connected (within the meaning that would be assigned by subsection 186(4) if the references in that subsection to “payer corporation” and “particular corporation” were read as “subject corporation” and “purchaser corporation”, respectively, and if section 186 were read without reference to its subsection (6)) with the purchaser corporation.

(2) The portion of paragraph 212.1(1.1)(a) of the Act before subparagraph (i) is replaced by the following:

(a) the amount, if any, by which the fair market value of any consideration (other than any share of the capital stock of the purchaser corporation) received by the non-resident person referred to in subsection (1) from the purchaser corporation for the subject shares exceeds the paid-up capital in respect of the subject shares immediately before the disposition shall, for the purposes of this Act, be deemed to be a dividend

(3) Subsection 212.1(1.2) of the Act is replaced by the following:

Deemed consideration

(1.2) For the purposes of subsections (1) and (1.1), if, in the absence of this subsection, no consideration would be received by the non-resident person referred to in subsection (1) from the purchaser corporation for the subject shares, the non-resident person is deemed to receive consideration other than shares of the capital stock of the purchaser corporation from the purchaser corporation for the subject shares, the fair market value of which is equal to the amount, if any, by which the fair market value of the subject shares disposed of by the non-resident person exceeds the amount of any

increase because of the disposition in the fair market value of the shares of the capital stock of the purchaser corporation.

(4) The portion of paragraph 212.1(3)(a) of the Act before subparagraph (i) is replaced by the following:

(a) a non-resident person shall, for greater certainty, be deemed not to deal at arm's length with a purchaser corporation at the time of a disposition described in subsection (1) if the non-resident person was,

(5) Paragraph 212.1(3)(b) of the Act is replaced by the following:

(b) for the purposes of determining whether or not a particular non-resident person referred to in paragraph (a) was a member of a group of less than 6 persons that controlled a corporation at any time, any shares of the capital stock of that corporation owned at that time by

(i) the non-resident person's child (within the meaning assigned by subsection 70(10)), who is under 18 years of age, or the non-resident person's spouse or common-law partner,

(ii) a trust of which the non-resident person, a person described in subparagraph (i) or a corporation described in subparagraph (iii) is a beneficiary,

(iii) a corporation controlled by the non-resident person, a person described in subparagraph (i), a trust described in subparagraph (ii) or any combination thereof, or

(iv) a partnership of which the non-resident person or a person described in one of subparagraphs (i) to (iii) is a majority-interest partner or a member of a majority-interest group of partners (as defined in subsection 251.1(3))

shall be deemed to be owned at that time by the non-resident person and not by the person who actually owned the shares at that time;

(6) Subsection 212.1(3) of the Act is amended by adding "and" at the end of paragraph (d) and by repealing paragraph (e).

(7) The portion of paragraph 212.1(4)(b) of the Act before subparagraph (ii) is replaced by the following:

(b) it is not the case that, at the time of the disposition, or as part of a transaction or event or series of transactions or events that includes the disposition, a non-resident person

(i) holds, directly or indirectly, shares of the capital stock of the purchaser corporation, and

(8) Section 212.1 of the Act is amended by adding the following after subsection (4):

Tiered trusts and partnerships

(5) For the purposes of this section, a person or partnership that is, at any time, a beneficiary under a trust (other than a trust that is the non-resident person referred to in subsection (1)), or a member of a partnership (such trust or partnership referred to in this subsection as the "particular conduit"), that is a beneficiary under a trust or member of a partnership (such trust or partnership referred to in this subsection as the "other conduit") is deemed

(a) to be a beneficiary under or member of, as the case may be, the other conduit; and

(b) to hold the interest in the other conduit that is held by the particular conduit in the following proportion:

$$A/B$$

where

A is the portion of the fair market value, at that time, of the person or partnership's interest in the particular conduit that is attributable to the interest in the other conduit held by the particular conduit, and

B is the total fair market value, at that time, of all interests in the other conduit.

Trusts and partnerships look-through rule

(6) For the purposes of subsections (1) and (1.1) and, in the case of paragraph (b), for the purposes of this subsection,

(a) if at any time shares of the capital stock of a corporation resident in Canada are, or would be based on the assumptions contained in paragraph 96(1)(c), owned by a trust (other than a trust that is the non-resident person referred to in subsection (1)) or a partnership (each referred to in this subsection as a “conduit”), each person or partnership with an interest as a beneficiary under the conduit or that is a member of the conduit (each referred to in this subsection as a “holder”), as the case may be, is deemed to own the shares of each class of the capital stock of the corporation resident in Canada that are owned by the conduit the number of which is determined by the formula

$$A \times B/C$$

where

A is the total number of shares of the class of the capital stock of the corporation resident in Canada that are owned by the conduit at that time,

B is the fair market value, at that time, of the holder’s interest in the conduit, and

C is the total fair market value, at that time, of all interests in the conduit;

(b) if at any time a holder disposes of an interest in a conduit (in this paragraph referred to as the “pertinent interest”) to a purchaser and any portion of the fair market value of the pertinent interest is attributable to shares of the capital stock of a corporation resident in Canada held, directly or indirectly, by the conduit (in this paragraph referred to as the “shares held by the conduit”), then

(i) the holder is deemed, on a class-by-class basis, to have disposed, at that time, of the shares held by the conduit to the purchaser, and the purchaser is deemed to have acquired the shares, in the following proportion:

$$A/B$$

where

A is the portion of the fair market value, at that time, of the pertinent interest that is attributable to the shares held by the conduit, and

B is the total fair market value, at that time, of the shares held by the conduit, and

(ii) the holder is deemed to have received from the purchaser and the purchaser is deemed to have paid to the holder, as consideration for the shares deemed to have been disposed of in subparagraph (i), consideration (other than any share of the capital stock of the purchaser corporation) in an amount determined by the formula

$$A \times B/C$$

where

A is the fair market value of the consideration (other than any share of the capital stock of the purchaser corporation) that is received by the holder from the purchaser for the pertinent interest,

B is the amount determined for A in subparagraph (i), and

C is the total fair market value of the pertinent interest;

(c) if at any time a partnership disposes of shares of the capital stock of a corporation resident in Canada to a purchaser, then

(i) each member of the partnership is deemed, on a class-by-class basis, to have disposed, at that time, of the shares to the purchaser in the following proportion:

$$A/B$$

where

A is the fair market value, at that time, of the member’s interest in the partnership, and

B is the total fair market value, at that time, of all interests in the partnership, and

(ii) each member of the partnership is deemed to have received from the purchaser and the purchaser is deemed to have paid to each member, as consideration for the shares deemed to have been disposed of in subparagraph (i), consideration (other than any share of the capital stock of the purchaser corporation) in an amount determined by the formula

$$A \times B/C$$

where

A is the fair market value of the consideration (other than any share of the capital stock of the purchaser corporation) that is received by the partnership from the purchaser for the shares,

B is the amount determined for A in subparagraph (i), and

C is the amount determined for B in subparagraph (i); and

(d) if at any time a conduit acquires shares of the capital stock of a corporation resident in Canada from a vendor, then

(i) each holder of an interest in the conduit is deemed to have acquired, at that time, the shares from the vendor, on a class-by-class basis, in the following proportion:

$$A/B$$

where

A is the fair market value, at that time, of the holder's interest in the conduit, and

B is the total fair market value, at that time, of all interests in the conduit, and

(ii) each holder of an interest in the conduit is deemed to have paid to the vendor and the vendor is deemed to have received from each such holder, as consideration for the shares deemed to have been acquired in subparagraph (i), consideration (other than any share of the capital stock of the purchaser corporation) in an amount determined by the formula

$$A \times B/C$$

where

A is the fair market value of the consideration (other than any share of the capital stock of the purchaser corporation) that is paid by the conduit to the vendor for the shares,

B is the amount determined for A in subparagraph (i), and

C is the amount determined for B in subparagraph (i).

Avoidance of subsections (5) and (6)

(7) The amounts determined for A and B in paragraph (5)(b), for B and C in paragraph (6)(a) and for A and B in subparagraph (6)(d)(i) are, in respect of an interest as a beneficiary under a trust held by a person or partnership, deemed to be equal to one if

(a) the person or partnership's share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power; and

(b) it can reasonably be considered that one of the reasons for the discretionary power is to avoid or limit the application of subsection 212.1(1.1).

(9) Subsections (1) to (8) apply in respect of dispositions that occur after February 26, 2018.

Foreign Affiliates

Tracking Arrangements – Investment Businesses and Controlled Foreign Affiliate Status

20 (1) Paragraph 93.1(1.1)(d) of the Act is replaced by the following:

(d) paragraph 95(2)(g.04), subsections 95(2.2) and (8) to (12) and section 126.

(2) Subsection (1) is deemed to have come into force on February 27, 2018.

21 (1) Section 95 of the Act is amended by adding the following after subsection (7):

Tracking interests – interpretation

(8) For the purposes of subsections (9) to (11), a property is a tracking interest in a person or partnership (referred to in this subsection and subsections (11) and (12) as the “tracked entity”) if

(a) all or part of the fair market value of the property — or of any payment or right to receive an amount in respect of the property — can reasonably be considered to be determined, directly or indirectly, by reference to one or more of the following criteria in respect of property or activities of the tracked entity (referred to in this subsection and subsections (9) and (11) as the “tracked property and activities”):

(i) the fair market value of property of the tracked entity,

(ii) any revenue, income or cash flow from property or activities of the tracked entity,

(iii) any profits or gains from the disposition of property of the tracked entity, and

(iv) any similar criteria in respect of property or activities of the tracked entity; and

(b) the tracked property and activities in respect of the property represent less than all of the property and activities of the tracked entity.

Tracking interests – investment business definition

(9) For the purposes of the definition *investment business* in subsection (1), if, at any time in a taxation year of a foreign affiliate of a taxpayer, the taxpayer holds a tracking interest in the affiliate or in a partnership of which the affiliate is a member, the tracked property and activities of the affiliate or the partnership, as the case may be, are, to the extent they would not otherwise be part of an investment business, deemed, in respect of the taxpayer,

(a) to be a separate business carried on by the affiliate throughout the year; and

(b) not to be part of any other business of the affiliate.

Tracking interests – controlled foreign affiliate

(10) A foreign affiliate of a taxpayer is deemed to be a controlled foreign affiliate of the taxpayer throughout a taxation year of the affiliate if

(a) at any time in the year, the taxpayer holds a tracking interest in the affiliate or in a partnership of which the affiliate is a member;

(b) the foreign accrual property income of the affiliate, or another foreign affiliate of the taxpayer in which the affiliate has an equity percentage, for the year is greater than nil; and

(c) no election under subsection (11) applies in respect of the affiliate for the year.

Conditions for subsection (12)

(11) Subsection (12) applies in respect of a foreign affiliate of a taxpayer for a taxation year of the affiliate if

- (a) the affiliate would be a controlled foreign affiliate of the taxpayer because of the application of subsection (10) if that subsection were read without reference to its paragraph (c);
- (b) at any time in the year, the taxpayer holds a property that is a tracking interest;
- (c) the affiliate is the tracked entity in respect of the tracking interest;
- (d) the taxpayer, or a foreign affiliate of the taxpayer, holds shares of a class (referred to in subsection (12) as the “tracking class”) of the capital stock of the affiliate the fair market value of which can reasonably be considered to be determined by reference to the tracked property and activities; and
- (e) the taxpayer elects in writing to have subsection (12) apply in respect of the affiliate for the year and files the election with the Minister on or before the filing–due date of the taxpayer for its taxation year that includes the last day of the year.

Tracking class – separate corporation

(12) If this subsection applies in respect of a foreign affiliate (referred to in this subsection as the “actual affiliate”) of a taxpayer for a taxation year of the actual affiliate, the following rules apply for the purposes of determining the amounts, if any, to be included under subsection 91(1), and to be deducted under subsection 91(4), by the taxpayer for the year and for the purpose of applying section 233.4 for the year:

- (a) the tracked property and activities of the actual affiliate are deemed to be property and activities of a non-resident corporation (referred to in this subsection as the “separate corporation”) without share capital that is separate from the actual affiliate and not to be property or activities of the actual affiliate;
- (b) any income, losses or gains for the year in respect of the property and activities described in paragraph (a) are deemed to be income, losses or gains of the separate corporation and not of the actual affiliate;
- (c) all rights and obligations of the actual affiliate in respect of the property and activities described in paragraph (a) are deemed to be rights and obligations of the separate corporation and not of the actual affiliate;
- (d) the shares of the tracking class are deemed to be *equity interests* (as defined in subsection 93.2(1)) in the separate corporation;
- (e) all rights and obligations in respect of the tracking class are deemed to be rights and obligations in respect of the equity interests referred to in paragraph (d); and
- (f) any amounts included under subsection 91(1), or deducted under subsection 91(4), by the taxpayer in respect of shares of the separate corporation are deemed to be amounts included under subsection 91(1), or deducted under subsection 91(4), by the taxpayer in respect of shares of the tracking class held by the taxpayer.

(2) Subsection (1) applies to taxation years of a foreign affiliate of a taxpayer that begin after February 26, 2018.

Trading or Dealing in Indebtedness

22 (1) The portion of paragraph 95(2)(l) of the Act after subparagraph (ii), and before subparagraph (iii), is replaced by the following:

unless it is established by the taxpayer or the foreign affiliate that, throughout the period in the taxation year during which the business was carried on by the affiliate,

(2) Paragraph 95(2)(l) of the Act is amended by replacing the portion of subparagraph (iii) before clause (A) with the following:

(iii) the business (other than any business conducted principally with persons with whom the affiliate does not deal at arm's length) is carried on by the affiliate as a foreign bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities, the activities of which are regulated under the laws

(3) Paragraph 95(2)(l) of the Act is amended by striking out “and” at the end of subparagraph (iii) and by repealing subparagraph (iv).

(4) The portion of subsection 95(2.11) of the Act before paragraph (a) is replaced by the following:

Rule for *investment business* definition and paragraph (2)(l)

(2.11) A taxpayer or a foreign affiliate of the taxpayer, as the case may be, is deemed not to have established that the conditions in subparagraph (a)(i) of the definition *investment business* in subsection (1), or in subparagraph (2)(l)(iii), have been satisfied throughout a period in a particular taxation year of the affiliate unless

(5) Subsections (1) to (4) apply to taxation years of a foreign affiliate of a taxpayer that begin after February 26, 2018.

Reassessments

23 (1) Subparagraph 152(4)(b)(iii) of the Act is replaced by the following:

(iii) is made

(A) as a consequence of a transaction involving the taxpayer and a non-resident person with whom the taxpayer was not dealing at arm's length, or

(B) in respect of any income, loss or other amount in relation to a foreign affiliate of the taxpayer,

(2) Subparagraph 152(4.01)(b)(iii) of the Act is replaced by the following:

(iii) the transaction, income, loss or other amount referred to in subparagraph (4)(b)(iii),

(3) Subsections (1) and (2) apply to taxation years of a taxpayer that begin after February 26, 2018.

Reporting Requirements

24 (1) Subsection 233.4(4) of the Act is replaced by the following:

Returns respecting foreign affiliates

(4) A reporting entity for a taxation year or fiscal period shall file with the Minister for the year or period a return in prescribed form in respect of each foreign affiliate of the entity in the year or period within six months after the end of the year or period.

(2) Subsection (1) applies to taxation years of a taxpayer, and fiscal periods of a partnership, that begin after 2019.

Foreign Divisive Reorganizations

25 (1) Subsection 15(1.4) of the Act is amended by adding “and” at the end of paragraph (c), by striking out “and” at the end of paragraph (d) and by repealing paragraph (e).

(2) Section 15 of the Act is amended by adding the following after subsection (1.4):

Division of corporation under foreign laws

(1.5) If a non-resident corporation (in this subsection referred to as the “original corporation”) governed by the laws of a foreign jurisdiction undergoes a division under those laws that results in all or part of its assets and liabilities

becoming the assets and liabilities of one or more other non-resident corporations (each of which is referred to in this subsection as a “new corporation”) and, as a consequence of the division, a shareholder of the original corporation acquires one or more shares of the capital stock of a new corporation at a particular time, the following rules apply:

(a) except to the extent that any of subparagraphs (1)(a.1)(i) to (iii) and paragraph (1)(b) applies (determined without reference to this subsection) to the acquisition of the shares

(i) in the case where, for each class of shares of the capital stock of the original corporation of which shares are held by the shareholder immediately before the division, shares of the capital stock of the new corporation are received by shareholders of that class on a pro rata basis

(A) at the particular time, the original corporation is deemed to have distributed, and the shareholder of the new corporation is deemed to have received, as a dividend in kind, the shares of the capital stock of the new corporation held by that shareholder immediately after the particular time, and

(B) the amount of the dividend in kind received by the shareholder of the new corporation is deemed to be equal to the total fair market value of the shares of the capital stock of the new corporation held by that shareholder immediately after the particular time, and

(ii) in any case where subparagraph (i) does not apply, the original corporation is deemed, at the particular time, to have conferred a benefit on the shareholder equal to the total fair market value, at that time, of the shares of the capital stock of the new corporation that the shareholder acquires as a consequence of the division;

(b) any gain or loss of the original corporation from a distribution of shares of the new corporation as a consequence of the division is deemed to be nil; and

(c) each property of the original corporation that becomes at any time (referred to in this paragraph as the “disposition time”) property of the new corporation as a consequence of the division is deemed to be

(i) disposed of by the original corporation immediately before the disposition time for proceeds of disposition equal to the property’s fair market value, and

(ii) acquired by the new corporation at the disposition time, at a cost equal to the amount determined under subparagraph (i) to be the original corporation’s proceeds of disposition.

(3) Subsection (1) is deemed to have come into force on October 24, 2012.

(4) Subsection (2) applies in respect of divisions that occur after October 23, 2012.

26 (1) The definition *designated person or partnership* in subsection 5907(1) of the Regulations is replaced by the following:

designated person or partnership, in respect of a taxpayer at any time, means

(a) the taxpayer,

(b) a person or partnership that is at that time

(i) a person (other than a partnership) that does not, at that time, deal at arm’s length with the taxpayer, or

(ii) a partnership a member of which is, at that time, a designated person or partnership in respect of the taxpayer under this definition, and

(c) if a foreign affiliate of the taxpayer is an original corporation that undergoes a division in respect of which subsection 15(1.5) of the Act applies, a new corporation in respect of the division; (*personne ou société de personnes désignée*)

(2) The portion of subparagraph 5907(2)(f)(ii) of the Regulations before clause (A) is replaced by the following:

(ii) subject to subsections (2.01) and (2.011), does not arise with respect to a disposition (other than a disposition to which subsection (9) applies), of property by the affiliate,

(3) The portion of subparagraph 5907(2)(j)(iii) of the Regulations before clause (A) is replaced by the following:

(iii) subject to subsections (2.01) and (2.011), does not arise with respect to a disposition (other than a disposition to which subsection (9) applies), of property by the affiliate,

(4) Section 5907 of the Regulations is amended by adding the following after subsection (2.01):

(2.011) Subparagraphs (2)(f)(ii) and (j)(iii) and subsection (5.1) do not apply to a particular disposition of property (referred to in this subsection as the “affiliate property”) by a particular foreign affiliate of a taxpayer to another foreign affiliate of the taxpayer if

(a) the particular disposition is a disposition referred to in subparagraph 15(1.5)(c)(i) of the Act;

(b) all of the shares of the capital stock of the other affiliate are disposed of, at a particular time that is within 90 days of the day that includes the time of the particular disposition, to a person or partnership that at the particular time is not a designated person or partnership in respect of the taxpayer; and

(c) the affiliate property is not disposed of by the other affiliate as part of a series of transactions or events that includes the particular disposition.

(5) Subsection (1) is deemed to have come into force on Announcement Date.

(6) Subsections (2) to (4) apply in respect of dispositions that occur after October 23, 2012.

Passive Investment Income — Allocation of Losses

27 (1) Section 129 of the Act is amended by adding the following after subsection (4):

Conditions for subsection (4.2)

(4.1) Subsection (4.2) applies in respect of a particular taxation year of a particular corporation if the following conditions are met:

(a) the particular corporation has an amount of tax payable for the year under Part IV;

(b) the particular corporation has claimed amounts under paragraph 186(1)(c) or (d) in respect of the year; and

(c) the particular corporation would, in the absence of paragraphs 186(1)(c) and (d), have an amount determined, at the end of the year, under both paragraph (a) of the definition *eligible refundable dividend tax on hand* and paragraph (b) of the definition *non-eligible refundable dividend tax on hand* in subsection (4).

Part IV tax — allocation of losses

(4.2) If this subsection applies in respect of a particular taxation year of a corporation, for the purpose of determining the amount under paragraph (a) of the definition *eligible refundable dividend tax on hand* in subsection (4), in respect of the corporation at the end of the year, the amount determined under subsection 186(1) in respect of the corporation for the year is deemed to be the amount determined by the formula

$$A + B - C$$

where

A is the amount determined under paragraph 186(1)(a) in respect of the corporation for the year in respect of eligible dividends;

B is the amount determined under paragraph 186(1)(b) in respect of the corporation for the year in respect of dividends that resulted in dividend refunds from the eligible refundable dividend tax on hand of other corporations; and

C is the amount determined by the formula

$$38 \frac{1}{3}\% (D + E) - (F + G)$$

where

D is the amount claimed by the corporation under paragraph 186(1)(c) for the year,

E is the amount claimed by the corporation under paragraph 186(1)(d) for the year,

F is the amount determined under paragraph 186(1)(a) in respect of the corporation for the year in respect of taxable dividends (other than eligible dividends), and

G is the amount determined under paragraph 186(1)(b) in respect of the corporation for the year in respect of dividends that resulted in dividend refunds from the non-eligible refundable dividend tax on hand of other corporations.

(2) Subsection (1) applies to taxation years that begin after 2018.

Reassessment Period – Requirements for Information and Compliance Orders

28 The portion of section 231 of the Act before the definition *authorized person* is replaced by the following:

231 In sections 231.1 to 231.8,

29 The portion of subsection 231.6(7) of the Act before paragraph (a) is replaced by the following:

Time period not to count

(7) The period of time between the day on which an application for review of a requirement is made pursuant to subsection (4) and the day on which the application is finally disposed of shall not be counted in the computation of

Time period not to count

30 The Act is amended by adding the following after section 231.7:

231.8 The following periods of time shall not be counted in the computation of the period of time within which an assessment may be made for a taxation year of a taxpayer under subsection 152(4):

(a) where the taxpayer is served a notice of a requirement under subsection 231.2(1), the period of time between the day on which an application for judicial review in respect of the requirement is made and the day on which the application is finally disposed of; and

(b) where an application is commenced by the Minister under subsection 231.7(1) to order the taxpayer to provide any access, assistance, information or document, the period of time between the day on which the taxpayer files a notice of appearance, or otherwise opposes the application, and the day on which the application is finally disposed of.

Reassessment Period – Non-Resident Non-Arm's Length Persons

31 (1) Subparagraph 152(4)(b)(iii) of the French version of the Act is replaced by the following:

(iii) est établie par suite de la conclusion d'une opération impliquant le contribuable et une personne non-résidente avec laquelle il avait un lien de dépendance,

(2) Subsection 152(4) of the Act is amended by adding the following after paragraph (b.3):

(b.4) the assessment, reassessment or additional assessment is made before the day that is six years after the end of the normal reassessment period for the taxpayer in respect of the year if

(i) a reassessment of tax for the year was required under subsection (6), or would have been so required if the taxpayer had claimed an amount by filing the prescribed form referred to in that subsection on or before the day referred to in that subsection, in order to take into account a deduction claimed under section 111 in respect of a loss for a subsequent taxation year,

(ii) an assessment, reassessment, additional assessment of tax or notification that no tax is payable for the subsequent taxation year referred to in subparagraph (i) was made or issued after the normal reassessment period in respect of the subsequent taxation year as a consequence of a transaction involving the taxpayer and a non-resident person with whom the taxpayer was not dealing at arm's length, and

(iii) the assessment, reassessment, additional assessment or notification that no tax is payable referred to in subparagraph (ii) reduced the amount of the loss for the subsequent taxation year;

(3) The portion of subsection 152(4.01) of the Act before paragraph (a) is replaced by the following:

Extended period assessment

(4.01) Notwithstanding subsections (4) and (5), an assessment, reassessment or additional assessment to which paragraph (4)(a), (b), (b.1), (b.3), (b.4) or (c) applies in respect of a taxpayer for a taxation year may be made after the taxpayer's normal reassessment period in respect of the year to the extent that, but only to the extent that, it can reasonably be regarded as relating to,

(4) Subsection 152(4.01) of the Act is amended by striking out "and" at the end of paragraph (b), by adding "and" at the end of paragraph (c) and by adding the following after paragraph (c):

(d) if paragraph (4)(b.4) applies to the assessment, reassessment or additional assessment, the reduction under subparagraph (4)(b.4)(iii).

(5) Subsection (1) is deemed to have come into force on February 27, 2018.

(6) Subsections (2) to (4) apply in respect of a taxation year if a reassessment of tax for the year was required under subsection 152(6) of the Act, or would have been so required if the taxpayer had claimed an amount by filing the prescribed form referred to in that subsection on or before the day referred to in that subsection, in order to take into account a deduction claimed under section 111 of the Act in respect of a loss for a subsequent taxation year that ends after February 26, 2018.

Sharing Information for Criminal Matters

32 Paragraph 241(4)(e) of the Act is amended by striking out "or" at the end of subparagraph (xi), by adding "or" at the end of subparagraph (xii) and by adding the following after subparagraph (xii):

(xiii) an order made under the *Mutual Legal Assistance in Criminal Matters Act* to gather or send information, for the purposes of 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

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

(B) a bilateral agreement for mutual legal assistance in criminal matters to which Canada is a party;

Mutual Legal Assistance in Criminal Matters Act

33 The definition *agreement* in subsection 2(1) of the *Mutual Legal Assistance in Criminal Matters Act* (the “Act”) is replaced by the following:

agreement means

(a) a treaty, convention or other international agreement that is in force, to which Canada is a party and that contains a provision respecting mutual legal assistance in criminal matters, or

(b) to the extent of their application to criminal investigations or prosecutions and except for the purposes of Parts II and III, the Convention on Mutual Administrative Assistance in Tax Matters, concluded at Strasbourg on January 25, 1988, as amended from time to time by a protocol, or other international instrument, as ratified by Canada, or a comprehensive tax information exchange agreement or tax treaty that has effect and to which Canada is a party; (*accord*)

34 Subsection 5(1) of the Act is replaced by the following:

Publication in *Canada Gazette*

5 (1) Unless the agreement has been published under subsection (2), an agreement referred to in paragraph (a) of the definition *agreement* in subsection 2(1) — or the provisions respecting mutual legal assistance in criminal matters contained in a convention or other international agreement — must be published in the *Canada Gazette* no later than 60 days after it comes into force.

35 Section 7 of the Act is replaced by the following:

Functions of Minister

7 (1) The Minister is responsible for the implementation of every agreement referred to in paragraph (a) of the definition *agreement* in subsection 2(1) and for the administration of this Act.

How request dealt with

(2) When a request is made to the Minister under an agreement referred to in paragraph (a) of the definition *agreement* in subsection 2(1) by a state or entity or a Canadian competent authority, the Minister shall deal with the request in accordance with the relevant agreement and this Act.

How request dealt with

(3) When a request made by a state or entity under an agreement referred to in paragraph (b) of the definition *agreement* in subsection 2(1) is presented to the Minister by the Minister of National Revenue, the Minister shall deal with the request in accordance with the relevant agreement and this Act.

36 Subsection 8(1) of the Act is replaced by the following:

Limitation — requests under agreements

8 (1) If a request for mutual legal assistance is made under an agreement, the Minister may not give effect to the request by means of the provisions of this Part unless the agreement provides for assistance with respect to the subject-matter of the request.

37 The Act is amended by adding the following after section 22.05:

Orders to gather tax information

22.06 (1) A judge of the province to whom an application is made under subsection 17(2) with respect to an investigation or prosecution relating to an act or omission that, if it had occurred in Canada, would have constituted an offence under subsection 462.48(1.1) of the *Criminal Code* may make an order for the gathering of the information or documents referred to in paragraph 462.48(2)(c) of that Act.

***Criminal Code* applies**

(2) Subject to subsection (3), an order made under subsection (1) may be obtained and made in accordance with subsections 462.48(1) to (5) of the *Criminal Code* and executed in the manner provided for in that Act, with any necessary modifications.

Provisions applicable to order

(3) Paragraphs 18(2)(b) and (c), subsections 18(3) to (9) and sections 19 to 22, except for paragraph 19(1)(a), apply, with any necessary modifications, in respect of an order made under subsection (1) and prevail over any provisions of the *Criminal Code* that are inconsistent with them.

Criminal Code

38 Paragraph 462.48(2)(c) of the *Criminal Code* is replaced by the following:

(c) the type of information or book, record, writing, return or other document obtained by or on behalf of the Minister of National Revenue for the purposes of the *Income Tax Act*, Part IX of the *Excise Tax Act* or the *Excise Act, 2001* to which access is sought or that is proposed to be examined or communicated; and

