

# Legislative Proposals Relating to Income Tax and Other Legislation

## Accelerated Investment Incentive for Resource Expenditures

**1 (1) Subsection 66(13.1) of the *Income Tax Act* (the “Act”) is replaced by the following:**

### Short taxation year

**(13.1)** If a taxpayer has a taxation year that is less than 51 weeks, the amount determined in respect of the year under each of subparagraph (4)(b)(i), paragraphs 66.2(2)(c) and (d), subparagraph (b)(i) of the definition ***global foreign resource limit*** in subsection 66.21(1), subparagraph 66.21(4)(a)(i), clause 66.21(4)(a)(ii)(B) and paragraphs 66.4(2)(b) and (c) and 66.7(2.3)(a), (4)(a) and (5)(a) shall not exceed that proportion of the amount otherwise determined that the number of days in the year is of 365.

**(2) Subsection (1) applies to taxation years that end after Announcement Date.**

## Accelerated Investment Incentive for Depreciable Property

**2 (1) Paragraphs (c) and (d) of the description of A in subsection 1100(2) of the *Income Tax Regulations* (the “Regulations”) are replaced by the following:**

**(c)** if the class is Class 43.2,

**(i)** 1, for property that became available for use by the taxpayer before 2024,

**(ii)** 1/2, for property that became available for use by the taxpayer in 2024 or 2025, and

**(iii)** 1/10, for property that became available for use by the taxpayer after 2025,

**(d)** if the property is included in Class 53 or — for property acquired after 2025 — is included in Class 43 and would have been included in Class 53 if it had been acquired in 2025,

**(i)** 1, for property that became available for use by the taxpayer before 2024,

**(ii)** 1/2, for property that became available for use by the taxpayer in 2024 or 2025,

**(iii)** 5/6, for property included in Class 43 that became available for use by the taxpayer after 2025, and

**(iv)** 1/10, for property included in Class 53 that became available for use by the taxpayer after 2025,

**(2) Subsection 1100(2.02) of the Regulations is replaced by the following:**

### Expenditures excluded from element D

**(2.02)** For the purposes of subsection (2), in respect of property of a class in Schedule II that is accelerated investment incentive property of a taxpayer solely because of subparagraph 1104(4)(b)(i),

**(a)** amounts incurred by any person or partnership in respect of the property are not to be included in determining the amount for D in subsection (2) in respect of the class

**(i)** if the amounts are incurred before November 21, 2018, unless

**(A)** the property was acquired after November 20, 2018 by a person or partnership from another person or partnership (referred to in this subparagraph as the “transferee” and the “transferor”, respectively),

**(B)** the transferee was either

**(I)** the taxpayer, or

**(II)** a person or partnership that does not deal at arm’s length with the taxpayer, and

**(C)** the transferor

**(I)** dealt at arm's length with the transferee, and

**(II)** held the property as inventory, and

**(ii)** if the amounts are incurred after November 20, 2018 and amounts are deemed to have been deducted under paragraph 20(1)(a) or subsection 20(16), in respect of those amounts incurred, under paragraph 1104(4.1)(b); and

**(b)** any amount excluded from the amount determined for D in subsection (2) in respect of the class because of paragraph (a) is to be included in determining the amount for F in subsection (2) in respect of the class, unless no amount in respect of the property would be so included if the property were not accelerated investment incentive property of the taxpayer.

**(3) Subsections (1) and (2) apply in respect of property acquired after November 20, 2018.**

**3 (1) Subsection 1102(20.1) of the Regulations is replaced by the following:**

**(20.1)** For the purposes of subsections 1100(2.02) and 1104(4), a particular person or partnership and another person or partnership shall be considered not to be dealing at arm's length with each other in respect of the acquisition or ownership of a property if, in the absence of this subsection, they would be considered to be dealing at arm's length with each other and it may reasonably be considered that the principal purpose of any transaction or event, or a series of transactions or events, is to cause

**(a)** the property to qualify as accelerated investment incentive property; or

**(b)** the particular person or partnership and the other person or partnership to satisfy the condition in subclause 1100(2.02)(a)(i)(C)(I).

**(2) Subsection (1) applies in respect of property acquired after Announcement Date.**

**4 (1) Subparagraph 1104(4)(b)(i) of the Regulations is replaced by the following:**

**(i)** the property is not a property in respect of which an amount has been deducted under paragraph 20(1)(a) or subsection 20(16) of the Act by any person or partnership for a taxation year ending before the time the property was acquired by the taxpayer, or

**(2) Section 1104 of the Regulations is amended by adding the following after subsection (4):**

**Deemed separate properties**

**(4.1)** For the purpose of subparagraph (4)(b)(i), if the capital cost to a taxpayer of a depreciable property (referred to in this subsection as the "single property") includes amounts incurred at different times, then amounts deducted under paragraph 20(1)(a) or subsection 20(16) of the Act in respect of the single property are deemed to have been deducted in respect of a separate property that is not part of the single property to the extent the deducted amounts can reasonably be considered to be in respect of amounts

**(a)** incurred before November 21, 2018; or

**(b)** incurred after November 20, 2018, if any portion of the single property is considered to have become available for use before the time the single property is first used for the purpose of earning income.

**(3) Subsections (1) and (2) apply in respect of property acquired after November 20, 2018.**

**Change in Use Rules for Multi-Unit Residential Properties**

**5 (1) Subsection 45(2) of the Act is replaced by the following:**

### **Election where change of use**

**(2)** For the purposes of this subdivision and section 13, if a taxpayer elects in respect of any property of the taxpayer in the taxpayer's return of income for a taxation year under this Part,

**(a)** if subparagraph (1)(a)(i) or paragraph 13(7)(b) would otherwise apply to the property for the taxation year, the taxpayer is deemed not to have begun to use the property for the purpose of gaining or producing income;

**(b)** if subparagraph (1)(c)(ii) or 13(7)(d)(i) would otherwise apply to the property for the taxation year, the taxpayer is deemed not to have increased the use regularly made of the property for the purpose of gaining or producing income relative to the use regularly made of the property for other purposes; and

**(c)** if the taxpayer rescinds the election in respect of the property in the taxpayer's return of income under this Part for a subsequent taxation year,

**(i)** if paragraph (a) applied to the taxpayer in the taxation year, the taxpayer is deemed to have begun to use the property for the purpose of gaining or producing income on the first day of the subsequent taxation year, and

**(ii)** if paragraph (b) applied to the taxpayer in the taxation year, the taxpayer is deemed to have increased the use regularly made of the property for the purpose of gaining or producing income on the first day of the subsequent taxation year by the amount that would have been the increase in the taxation year if the election had not been made.

**(2) The portion of subsection 45(3) of the Act before paragraph (a) is replaced by the following:**

### **Election concerning principal residence**

**(3)** If at any time a property that was acquired by a taxpayer for the purpose of gaining or producing income, or that was acquired in part for that purpose, ceases in whole or in part to be used for that purpose and becomes, or becomes part of, the principal residence of the taxpayer, paragraphs (1)(a) and (c) shall not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately thereafter if the taxpayer so elects by notifying the Minister in writing on or before the earlier of

**(3) Subsections (1) and (2) apply in respect of changes in the use of property that occur after March 18, 2019.**

## **Permitting Additional Types of Annuities under Registered Plans**

### **Advanced Life Deferred Annuities**

**6 (1) Subsection 56(1) of the Act is amended by striking out “and” at the end of paragraph (z.3), by adding “and” at the end of paragraph (z.4) and by adding the following after paragraph (z.4):**

### **Advanced life deferred annuity**

**(z.5)** any amount required by section 146.5 to be included in computing the taxpayer's income for the year.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**7 (1) Subparagraph 60(I)(v) of the Act is amended by adding the following after clause (A.1):**

**(A.2)** the amount included by subsection 146.5(3) in computing the taxpayer's income for the year as a payment received by the taxpayer as a consequence of the death of an individual who was

**(I)** immediately before the death, the spouse or common-law partner of the taxpayer, or

**(II)** a parent or grandparent of the taxpayer, if, immediately before the death, the taxpayer was financially dependent on the individual for support because of mental or physical infirmity,

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**8 (1) The definition *pension income* in subsection 118(7) of the Act is amended by adding the following after subparagraph (a)(iii.2):**

**(iii.3)** an amount included under subsection 146.5(2),

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**9 (1) The definition *qualified investment* in subsection 146(1) of the Act is amended by striking out “and” at the end of paragraph (c.2) and by adding the following after paragraph (c.2):**

**(c.3)** an advanced life deferred annuity, and

**(2) The portion of paragraph (a) of the definition *retirement income* in subsection 146(1) of the Act is before subparagraph (i) is replaced by the following:**

**(a)** an annuity (other than an advanced life deferred annuity) commencing at maturity, and with or without a guaranteed term commencing at maturity that does not exceed the term referred to in paragraph (b), payable to

**(3) The portion of paragraph (b) of the definition *retirement income* in subsection 146(1) of the Act is before subparagraph (i) is replaced by the following:**

**(b)** an annuity (other than an advanced life deferred annuity) commencing at maturity, payable to the annuitant for the annuitant’s life or to the spouse of common-law partner after the annuitant’s death for a term of years equal to 90 minus either

**(4) Subsection 146(16) of the Act is amended by striking out “or” at the end of paragraph (a) and by adding the following after that paragraph:**

**(a.1)** to a licensed annuities provider to acquire an advanced life deferred annuity under which the transferor is the annuitant, or

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2020.**

**10 (1) The definition *qualified investment* in subsection 146.3(1) of the Act is replaced striking out “and” at the end of paragraph (b.2) and by adding the following after paragraph (b.2):**

**(b.3)** an advanced life deferred annuity, and

**(2) Paragraph 146.3(2)(f) of the Act is amended by striking out “or” at the end of subparagraph (vii), by adding “or” at the end of subparagraph (viii) and by adding the following after subparagraph (viii):**

**(ix)** an advanced life deferred annuity, if the transfer is a refund described under paragraph (g) of the definition *advanced life deferred annuity* in subsection 146.5(1);

**(3) Subsection 146.3(14.1) of the Act is amended by striking out “or” at the end of paragraph (a), by adding “or” at the end of paragraph (b) and by adding the following after paragraph (b):**

**(c)** is transferred at the direction of the annuitant directly to a licensed annuities provider to acquire an advanced life deferred annuity under which the annuitant of the registered retirement income fund is the annuitant.

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2020.**

**11 (1) The Act is amended by adding the following after section 146.4:**

## Advanced Life Deferred Annuity

### Definitions

**146.5 (1)** The following definitions apply in this section.

**advanced life deferred annuity** means a contract for an annuity that meets the following conditions:

- (a) it is issued by a licensed annuities provider;
- (b) it specifies that it is intended to qualify as an advanced life deferred annuity under this Act;
- (c) annuity payments under the contract
  - (i) commence to be paid no later than the end of the calendar year in which the annuitant attains 85 years of age, and
  - (ii) are payable for the life of the annuitant or for the lives, jointly, of the annuitant and the annuitant's spouse or common-law partner;
- (d) annuity payments under the contract are payable
  - (i) in equal periodic amounts, or
  - (ii) in periodic amounts that are not equal only because the payments
    - (A) are adjusted in whole or in part to reflect
      - (I) increases in the Consumer Price Index, as published by Statistics Canada under the authority of the *Statistics Act*, or
      - (II) increases at a rate specified in the contract, not exceeding 2% per annum, or
    - (B) are reduced on the death of the annuitant or the annuitant's spouse or common-law partner;
- (e) if an annuity is payable for the lives, jointly, of the annuitant and the annuitant's spouse or common-law partner and the annuitant dies before payments commence to be paid, then the payments to the annuitant's spouse or common-law partner must
  - (i) commence no later than the date that they would have commenced if the annuitant were alive, and
  - (ii) be adjusted in accordance with generally accepted actuarial principles if the payments commence before the date they would have commenced if the annuitant were alive;
- (f) the amount to be paid, if any, to one or more beneficiaries under the contract after the death of the annuitant — or, in the case of a joint-lives annuity, after the last death of the annuitant and the annuitant's spouse or common-law partner — shall not exceed the amount, if any, by which the total amount transferred to purchase the annuity exceeds the total amount of annuity payments made under the contract;
- (g) it must provide that a portion of the amount transferred to purchase the annuity may be refunded to the annuitant or to the plan from which the amount was transferred, if the refund is paid to reduce the amount of tax that would otherwise be payable by the annuitant under Part XI; and
- (h) it may not provide for any payment except as specified in this definition. (*rente viagère différée à un âge avancé*)

**annuitant** means an individual who has acquired a contract for an annuity from a licensed annuities provider. (*rentier*)

**beneficiary**, under a contract for an annuity, means an individual who has a right under the contract to receive a payment after the death of the annuitant or the annuitant's spouse or common-law partner. (*bénéficiaire*)

#### **Taxable amount — annuity payments**

**(2)** Amounts (other than amounts described in paragraph (f) or (g) of the definition *advanced life deferred annuity* in subsection (1)) received by a taxpayer in a taxation year under an advanced life deferred annuity shall be included in computing the income of the taxpayer for the taxation year.

#### **Taxable amount — death benefits**

**(3)** Amounts described in paragraph (f) of the definition *advanced life deferred annuity* in subsection (1) received by a taxpayer in a taxation year under an advanced life deferred annuity as a result of the death of an individual shall be included in computing the income of

**(a)** the taxpayer for the taxation year, if the taxpayer is

**(i)** the spouse or common-law partner of the individual, or

**(ii)** a child or grandchild of the individual who was, immediately before the death of the individual, financially dependent on the individual for support; and

**(b)** the individual for the taxation year in which the individual died, in any other case.

#### **Taxation of refunds**

**(4)** The portion of a refund described in paragraph (g) of the definition *advanced life deferred annuity* in subsection (1) that is paid to an annuitant shall be included in the income of the annuitant.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**12 (1) The portion of subparagraph 147(2)(k)(vi) of the Act before clause (A) is replaced by the following:**

**(vi)** by a trustee under the plan to a licensed annuities provider to purchase for the beneficiary an annuity (other than an advanced life deferred annuity), if

**(2) Paragraph 147(19)(d) of the Act is amended by striking out “or” at the end of subparagraph (iii), by adding “or” at the end of subparagraph (iv) and by adding the following after subparagraph (iv):**

**(v)** a licensed annuities provider to acquire an advanced life deferred annuity under which the individual is the annuitant (as defined in subsection 146.5(1)).

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2020.**

**13 (1) Paragraph 147.3(1)(c) of the Act is amended by striking out “or” at the end of subparagraph (ii), by adding “or” at the end of subparagraph (iii) and by adding the following after subparagraph (iii):**

**(iv)** a licensed annuities provider to acquire an advanced life deferred annuity under which the member is the annuitant (as defined in subsection 146.5(1)).

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**14 (1) Paragraph 147.4(1)(a) of the Act is replaced by the following:**

**(a)** at any time an individual acquires, in full or partial satisfaction of the individual's entitlement to benefits under a registered pension plan, an interest in an annuity contract (other than an advanced life deferred annuity) purchased from a licensed annuities provider,

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**15 (1) The portion of the definition *qualifying annuity* in subsection 147.5(1) of the Act before paragraph (a) is replaced by the following:**

*qualifying annuity*, for an individual, means an annuity (other than an advanced life deferred annuity) that

**(2) Paragraph 147.5(21)(c) of the Act is amended by striking out “or” at the end of subparagraph (iv), by adding “or” at the end of subparagraph (v) and by adding the following after subparagraph (v):**

(vi) a licensed annuities provider to acquire an advanced life deferred annuity under which the individual is the annuitant.

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2020.**

**16 (1) Subsection 153(1) of the Act is amended by striking out “or” at the end of paragraph (s), by adding “or” at the end of paragraph (t) and by adding the following after paragraph (t):**

(u) a payment out of an advanced life deferred annuity

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**17 (1) The Act is amended by adding the following after part X.5:**

## PART XI

# Tax in Respect of Advanced Life Deferred Annuity

### Definitions

**205 (1)** The following definitions apply in this section.

***ALDA dollar limit***, for a calendar year, means

(a) for 2020, \$150,000; and

(b) for each year after 2020, the amount (rounded to the nearest multiple of \$10,000, or if that amount is equidistant from two such consecutive multiples, to the higher multiple) that is equal to \$150,000 adjusted for each year after 2020 in the manner set out in section 117.1. (*plafond RVDA*)

***cumulative excess amount***, of an individual at any particular time in a calendar year, means the amount determined by the formula

$$A - B$$

where

**A** is the greater of

(a) the total of all amounts each of which is an excess ALDA transfer of the individual at or before the particular time, and

(b) the amount determined by the formula

$$C - D$$

where

**C** is the total of all amounts each of which is the amount of a transfer at or before the particular time to acquire an advanced life deferred annuity on behalf of the individual, and

**D** is the ALDA dollar limit for the calendar year; and

**B** is the total of all amounts each of which is the amount of a refund described in paragraph (g) of the definition *advanced life deferred annuity* in subsection 146.5(1) made at or before the particular time on behalf of the individual. (*excédent cumulatif*)

**excess ALDA transfer**, of an individual, means the portion of the amount of a transfer, made from a transferor plan under any of subsections 146(16) and 146.3(14.1) and paragraphs 147(19)(d), 147.3(1)(c) and 147.5(21)(c) to acquire an advanced life deferred annuity on behalf of the individual, determined by the formula

$$A - B$$

where

**A** is the amount of the transfer; and

**B** is the amount determined by the formula

$$0.25(C + D) - E$$

where

**C** is the total value of the property held for the benefit of the individual under the transferor plan at the end of the calendar year preceding the calendar year in which the transfer is made, other than

(a) if the transferor plan is a registered pension plan, property held in connection with

(i) a defined benefit provision (as defined in subsection 147.1(1)) of the transferor plan, or

(ii) a VPLA fund, as described in subsection 8506(13) of the Regulations,

(b) if the transferor plan is a pooled registered pension plan, property held in connection with benefits that would be described in paragraph 147.5(5)(a) if the reference in that paragraph to “8506(1)(e.1) or (e.2)” were read as a reference to “8506(1)(e.2)”,

(c) if the transferor plan is a registered retirement income fund, contracts for annuities held in connection with the fund other than annuities described in paragraph (b.1) of the definition *qualified investment* in subsection 146.3(1), and

(d) if the transferor plan is a registered retirement savings plan, contracts for annuities held in connection with the plan other than annuities described in paragraph (c.1) of the definition *qualified investment* in subsection 146(1),

**D** is the total of all amounts each of which is the amount of a transfer from the transferor plan in a prior year to acquire an advanced life deferred annuity on behalf of the individual, and

**E** is the total of all amounts each of which is the amount of a previous transfer from the transferor plan to acquire an advanced life deferred annuity on behalf of the individual. (*excédent de transfert au titre de la RVDAA*)

### **Tax payable by individuals**

(2) If at the end of any month an individual has a cumulative excess amount, the individual shall, in respect of that month, pay a tax under this Part equal to 1% of that cumulative excess amount.

### **Waiver of tax**

(3) If an individual would, but for this subsection, be required to pay a tax under subsection (2) in respect of a month, the Minister may waive or cancel the tax if the individual establishes to the satisfaction of the Minister that

(a) the cumulative excess amount on which the tax is based arose as a consequence of reasonable error; and

(b) reasonable steps are being taken to eliminate the cumulative excess amount.

### **Return and payment of tax**

**206 (1)** Every person who is liable to pay tax under this Part for all or part of calendar year shall,



(a) on or before the person's filing-due date for the year, file with the Minister a return for the year under this Part in prescribed form and containing prescribed information; and

(b) on or before the person's balance-due day for the year, pay to the Receiver General the amount of tax payable under this Part by the person for the year.

#### **Provisions applicable to Part**

(2) Subsections 150(2) and (3), sections 152 and 158 to 167 and Division J of Part I apply with any modifications that the circumstances require.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**18 (1) Subsection 212(1) of the Act is amended by striking out "or" at the end of paragraph (w), by adding "or" at the end of paragraph (x) and by adding the following after paragraph (x):**

#### **Advanced life deferred annuity payment**

(y) a payment of an amount described in paragraph 56(1)(z.5).

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

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

*advanced life deferred annuity* has the meaning assigned by subsection 146.5(1); (*rente viagère différée à un âge avancé*)

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**20 (1) Subsection 252(3) of the Act is replaced by the following:**

#### **Extended meaning of spouse and former spouse**

(3) For the purposes of paragraph 56(1)(b), section 56.1, paragraphs 60(b) and (j), section 60.1, subsections 70(6) and (6.1), 73(1) and (5) and 104(4), (5.1) and (5.4), the definition *pre-1972 spousal trust* in subsection 108(1), subsection 146(16), the definition *survivor* in subsection 146.2(1), subparagraph 146.3(2)(f)(iv), subsection 146.3(14), section 146.5, subsections 147(19) and 147.3(5) and (7), section 147.5, subsections 148(8.1) and (8.2), the definition *qualifying transfer* in subsection 207.01(1), and subsections 210(1) and 248(22) and (23), *spouse* and *former spouse* of a particular individual include another individual who is a party to a void or voidable marriage with the particular individual.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**21 (1) The definition remuneration in subsection 100(1) of the Regulations is amended by striking out "or" at the end of paragraph (n), by adding "or" at the end of paragraph (o) and by adding the following after paragraph (o):**

(p) a payment out of an advanced life deferred annuity that is required by paragraph 56(1)(z.5) of the Act to be included in computing a taxpayer's income;

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**22 (1) The Regulations are amended by adding the following after section 215:**

#### **Advanced life deferred annuity**

**216 (1)** In this section, *designated entity* means

(a) an administrator of a registered pension plan;

(b) an administrator of a pooled registered pension plan;

- (c) an issuer of a registered retirement savings plan;
- (d) a carrier of a registered retirement income fund; and
- (e) a trustee of a deferred profit sharing plan. (*entité désignée*)

(2) A designated entity that transfers an amount to acquire an advanced life deferred annuity for an individual shall make an information return in prescribed form in respect of the transfer.

(3) A licensed annuities provider shall make an information return in prescribed form in respect of

- (a) a payment that is required by section 146.5 of the Act to be included in the income of a taxpayer; or
- (b) a refund described in paragraph (g) of the definition *advanced life deferred annuity* in subsection 146.5(1) of the Act.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

Variable Payment Life Annuities

**23 (1) Paragraph 147.5(5)(a) of the Act is replaced by the following:**

- (a) the payment of benefits to a member that would be in accordance with paragraph 8506(1)(e.1) or (e.2) of the *Income Tax Regulations* if the benefits were provided under a money purchase provision of a registered pension plan; and

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**24 (1) Subparagraph 8502(e)(i) of the Regulations is amended by striking out “and” at the end of clause (A) and by adding the following after clause (B):**

(C) in the case of benefits provided under a money purchase provision in accordance with paragraph 8506(1)(e.2), the benefits may begin to be paid not later than the later of

- (I) the end of the calendar year in which the member attains 71 years of age, and
- (II) the end of the calendar year in which a transfer was made from the member’s account to acquire rights under the VPLA fund, and

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2020.**

**25 (1) The portion of paragraph 8506(1)(e.1) of the Regulations before subparagraph (i) is replaced by the following:**

**Variable benefits**

- (e.1) retirement benefits (in this paragraph referred to as “variable benefits”), other than benefits permissible under any of paragraphs (a) to (e) and (e.2), provided to a member and, after the death of the member, to one or more beneficiaries of the member if

**(2) Subsection 8506(1) of the Regulations is amended by adding the following after paragraph (e.1):**

**Variable Payment Life Annuity**

- (e.2) retirement benefits (referred to in this paragraph as “VPLA benefits”), other than benefits permissible under any of paragraphs (a) to (e.1), provided to a member and, after the death of the member, to one or more beneficiaries of the member if

- (i) the VPLA benefits are paid from a VPLA fund,

(ii) the VPLA benefits are provided to the member (or, after the death of the member, to one or more beneficiaries of the member) because of a transfer of one or more amounts from the member's account to the VPLA fund,

(iii) each VPLA benefit is

(A) a retirement benefit described in any of paragraphs (b) to (e), (g) and (i), or

(B) a retirement benefit that would be described in paragraph (a) if its subparagraph (ii) read as follows:

“(ii) the benefits are adjusted annually, after they commence to be paid, in whole or in part to reflect

(A) increases in the Consumer Price Index, as published by Statistics Canada under the authority of the *Statistics Act*, or

(B) increases at a rate specified under the terms of the plan not exceeding 2% per annum;”, and

(iv) the VPLA benefits are increased or decreased at least annually to the extent that the following differ materially from the actuarial assumptions used to determine the VPLA benefits:

(A) the amount or rate of return earned by the VPLA fund, or

(B) the rate of mortality of the members and beneficiaries who are entitled to receive the VPLA benefits;

**(3) Paragraph 8506(2)(g) of the Regulations is replaced by the following:**

(g) retirement benefits (other than benefits permissible under paragraph (1)(e.1) or (e.2)) under the provision are provided by means of annuities that are purchased from a licensed annuities provider;

**(4) Section 8506 of the Regulations is amended by adding the following after subsection (12):**

#### **VPLA fund**

**(13)** For the purposes of paragraph (1)(e.2) and clause 8502(e)(i)(C), a VPLA fund under a money purchase provision of a pension plan is an arrangement that meets the following conditions:

(a) no amounts are contributed to the arrangement other than amounts that are transferred from accounts of the members of the plan;

(b) the arrangement has at least 10 members at the time it is established and, at all times after it is established, it is reasonable to expect that the arrangement will have at least 10 members on an ongoing basis; and

(c) no benefit may be paid from the arrangement other than retirement benefits described in subparagraph (1)(e.2)(iii).

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2020.**

## **Registered Disability Savings Plan — Cessation of Eligibility for the Disability Tax Credit**

**26 (1) The definition *specified RDSP payment* in subsection 60.02(1) of the Act is amended by striking out “and” at the end of paragraph (c), by adding “and” at the end of paragraph (d) and by adding the following after paragraph (d):**

(e) if the eligible individual is not a *DTC-eligible individual* (as defined in subsection 146.4(1)), is made no later than the end of the fourth taxation year following the first taxation year throughout which the beneficiary is not a DTC-eligible individual.

**(2) Subsection (1) is deemed to have come into force on March 19, 2019.**

**27 (1) Paragraph (c) of the definition *disability savings plan* in subsection 146.4(1) of the Act is replaced by the following:**

(c) that is entered into in a taxation year in respect of which

(i) the beneficiary is a DTC-eligible individual, or

(ii) the beneficiary is not a DTC-eligible individual and an amount is to be transferred from a registered disability savings plan of the beneficiary to the arrangement in accordance with subsection (8).

**(2) Subparagraph 146.4(4)(f)(i) of the Act is replaced by the following:**

(i) the beneficiary is not a DTC-eligible individual in respect of the taxation year that includes that time, unless the contribution is a specified RDSP payment in respect of the beneficiary, or

**(3) The portion of subparagraph 146.4(4)(n)(i) of the Act before clause (A) is replaced by the following:**

(i) if the calendar year is not a specified year for the plan and the conditions in clauses (p)(ii)(A) and (B) are not met in the calendar year, the total amount of disability assistance payments made from the plan to the beneficiary in the calendar year shall not exceed the specified maximum amount for the calendar year, except that, in calculating that total amount, any payment made following a transfer in the calendar year from another plan in accordance with subsection (8) is to be disregarded if it is made

**(4) Subparagraph 146.4(4)(p)(ii) of the Act is replaced by the following:**

(ii) the first calendar year in which the following conditions are met:

(A) the holder of the plan has requested that the issuer terminate the plan, and

(B) throughout the year, the beneficiary has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1).

**(5) Subsections 146.4(4.1) to (4.3) of the Act are repealed.**

**(6) Section 146.4 of the Act is amended by adding the following after subsection (4.3):**

#### **Transitional rule**

**(4.4)** If, after March 18, 2019 and before 2021, a registered disability savings plan would otherwise be required to be terminated because of subparagraph (4)(p)(ii) or any terms of the plan provided because of that subparagraph, then notwithstanding that subparagraph or those terms, the plan is not required to be terminated before 2021 in either of the following circumstances:

(a) the beneficiary of the plan has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1), or

(b) an election was made under subsection (4.1) and the election ceases to be valid after March 18, 2019 and before 2021 because of paragraph (4.2)(b).

**(7) Subsection 146.4(4.4) of the Act, as enacted by subsection (6), is repealed.**

**(8) Subsections (1) to (5) and (7) come into force on January 1, 2021.**

**(9) Subsection (6) is deemed to have come into force on March 19, 2019.**

## Contributions to a Specified Multi-Employer Plan for Older Members

**28 (1) Subsection 8510(7) of the the Regulations is amended by striking out “and” at the end of paragraph (a), by adding “and” at the end of paragraph (b) and by adding the following after that paragraph:**

**(c)** no contributions are made

**(i)** to the plan with respect to a member at any time after the end of the calendar year in which the member attains 71 years of age, or

**(ii)** to a defined benefit provision of the plan with respect to a member during a period (other than a *qualifying period*, as defined in subsection 8503(16)) in which the member is in receipt of retirement benefits from a defined benefit provision of the plan.

**(2) Subsection (1) applies in respect of contributions made pursuant to any collective bargaining agreement entered into after 2019, except that it does not apply in respect of contributions made on or before the date the agreement is entered into.**

## Pensionable Service Under an Individual Pension Plan

**29 (1) Paragraph 147.3(3)(c) of the Act is replaced by the following:**

**(c)** is transferred directly to another registered pension plan to be held in connection with a defined benefit provision of the other plan, unless the transfer is to an *individual pension plan* (as defined by regulation) and is in respect of benefits that are attributable to employment with a former employer that is not a participating employer (or its predecessor employer); and

**(2) Subsection (1) is deemed to have come into force on March 19, 2019.**

**30 (1) The portion of subparagraph 8503(3)(a)(v) of the Regulations before clause (A) is replaced by the following:**

**(v)** unless the provision is a provision of an individual pension plan, a period in respect of which

**(2) The portion of subparagraph 8503(3)(a)(v.1) of the Regulations before clause (A) is replaced by the following:**

**(v.1)** unless the provision is a provision of an individual pension plan, a portion — determined by reference to the proportion of property that has been transferred, as described in clause (B) — of a period in respect of which

**(3) Subparagraph 8503(3)(a)(vi) of the Regulations is replaced by the following:**

**(vi)** unless the provision is a provision of an individual pension plan, a period throughout which the member was employed in Canada by a former employer where the period was an eligibility period for the participation of the member in another registered pension plan, and

**(4) Subsections (1) to (3) are deemed to have come into force on March 19, 2019. However, subsections (1) to (3) do not apply to a period that was *pensionable service* (as defined in subsection 8500(1) of the Regulations) in respect of a member under a defined benefit provision of an individual pension plan before March 19, 2019.**

## Mutual Funds: Allocation to Redeemers Methodology

**31 (1) Section 132 of the Act is amended by adding the following after subsection (5.2):**

### **Allocation to redeemers**

**(5.3)** If a trust that is a mutual fund trust throughout a taxation year paid or made payable, at any time in the taxation year, to a beneficiary an amount on a redemption by that beneficiary of a unit of the trust (in this subsection referred to as the “allocated amount”), and the beneficiary’s proceeds from the disposition of that unit do not include the allocated amount, in computing its income for the taxation year no deduction may be made by the trust in respect of

- (a)** the portion of the allocated amount that would be, without reference to subsection 104(6), an amount paid out of the income (other than taxable capital gains) of the trust; and
- (b)** the portion of the allocated amount determined by the formula

$$A - 1/2 (B + C - D)$$

where

- A** is the portion of the allocated amount that would be, without reference to subsection 104(6), an amount paid out of the taxable capital gains of the trust,
- B** is the beneficiary’s proceeds from the disposition of the unit on the redemption,
- C** is the allocated amount, and
- D** is the amount determined by the trustee to be the beneficiary’s cost amount of that unit, using reasonable efforts to obtain the information required to determine the cost amount.

**(2) Subsection (1) applies to taxation years that begin after March 18, 2019. However, paragraph (5.3)(b) does not apply to a taxation year of a mutual fund trust that begins before March 20, 2020, if, in that taxation year, units of the trust are:**

- (a) listed on a designated stock exchange in Canada; and**
- (b) in continuous distribution.**

## **Electronic Delivery of Requirements for Information**

**32 (1) The portion of subsection 231.2(1) of the Act before paragraph (a) is replaced by the following:**

### **Requirement to provide documents or information**

**231.2 (1)** Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act (including the collection of any amount payable under this Act by any person), of a listed international agreement or, for greater certainty, of a tax treaty with another country, by notice sent or served in accordance with subsection (1.1), require that any person provide, within such reasonable time as is stipulated in the notice,

**(2) Section 231.2 of the Act is amended by adding the following after subsection (1):**

### **Notice**

**(1.1)** A notice referred to in subsection (1) may be

- (a)** served personally;
- (b)** sent by registered or certified mail; or
- (c)** sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (1) electronically.

**(3) Subsections (1) and (2) come into force on January 1, 2020.**

**33 (1) Subsection 231.6(2) of the Act is replaced by the following:**

### **Requirement to provide foreign-based information**

**(2)** Notwithstanding any other provision of this Act, the Minister may, by notice sent or served in accordance with subsection (3.1), require that a person resident in Canada or a non-resident person carrying on business in Canada provide any foreign-based information or document.

### **(2) Section 231.6 of the Act is amended by adding the following after subsection (3):**

#### **Notice**

**(3.1)** A notice referred to in subsection (2) may be

**(a)** served personally;

**(b)** sent by registered or certified mail; or

**(c)** sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (2) electronically.

### **(3) Subsection 231.6(4) of the English version of the Act is replaced by the following:**

#### **Review of foreign information requirement**

**(4)** The person who is sent or served with a notice of a requirement under subsection (2) may, within 90 days after the notice is sent or served, apply to a judge for a review of the requirement.

### **(4) Subsection 231.6(6) of the English version of the Act is replaced by the following:**

#### **Unreasonableness**

**(6)** For the purposes of paragraph (5)(c), the requirement to provide the information or document shall not be considered to be unreasonable because the information or document is under the control of or available to a non-resident person that is not controlled by the person who is sent or served with the notice of the requirement under subsection (2) if that person is related to the non-resident person.

### **(5) Subsection 231.6(8) of the Act is replaced by the following:**

#### **Consequence of failure**

**(8)** If a person fails to comply substantially with a notice sent or served under subsection (2) and if the notice is not set aside by a judge pursuant to subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on motion of the Minister, prohibit the introduction by that person of any foreign-based information or document covered by that notice.

### **(6) Subsections (1) to (5) come into force on January 1, 2020.**

### **34 (1) Paragraph 231.8(a) of the Act is replaced by the following:**

**(a)** where the taxpayer is sent or served with 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

### **(2) Subsection (1) comes into force on January 1, 2020.**

### **35 (1) Section 244 of the Act is amended by adding the following after subsection (6):**

#### **Proof of electronic delivery**

**(6.1)** If, by this Act or a regulation, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Canada Revenue Agency sworn before a commissioner or other person authorized to take affidavits, shall,

in the absence of proof to the contrary, be received as evidence of the sending and of the notice if the affidavit sets out that

- (a) the officer has knowledge of the facts in the particular case;
- (b) the notice was sent electronically to the person on a named day; and
- (c) the officer identifies as exhibits attached to the affidavit copies of
  - (i) an electronic message confirming the notice has been sent to the person, and
  - (ii) the notice.

**(2) Subsection (1) comes into force on January 1, 2020.**

Related Amendments

**36 (1) Subsection 99(1) of the *Excise Tax Act* is replaced by the following:**

**Provision of documents may be required**

**99 (1)** Subject to section 102.1, the Minister may, for any purpose related to the administration or enforcement of this Act, or of a listed international agreement, by a notice served or sent in accordance with subsection (1.1), require that any person provide any book, record, writing or other document or any information or further information within any reasonable time that may be stipulated in the notice.

**Notice**

**(1.1)** A notice referred to in subsection (1) may be

- (a) served personally;
- (b) sent by registered or certified mail; or
- (c) sent electronically, in the case of a bank, or *credit union* (as defined in subsection 123(1)), that has provided written consent to receive notices under subsection (1) electronically.

**(2) Subsection (1) comes into force on January 1, 2020.**

**37 (1) Subsection 102.1(1) of the *Excise Tax Act* is replaced by the following:**

**Unnamed persons**

**102.1 (1)** The Minister shall not serve or send a notice under subsection 99(1) with respect to an unnamed person or a group of unnamed persons unless the Minister has been authorized to do so under subsection (2).

**(2) The portion of subsection 102.1(2) of the *Excise Tax Act* before paragraph (a) is replaced by the following:**

**Authorization order**

**(2)** A judge of the Federal Court may, on application by the Minister and subject to any conditions that the judge considers appropriate, authorize the Minister to serve or send a notice under subsection 99(1) with respect to an unnamed person or a group of unnamed persons if the judge is satisfied by information on oath that

**(3) Paragraph 102.1(2)(b) of the *Excise Tax Act* is replaced by the following:**

- (b) the notice would be served or sent in order to verify compliance by the person or group with any duty or obligation of that person or of persons in that group under this Act.



**(4) Subsections (1) to (3) come into force on January 1, 2020.**

**38 (1) Section 105 of the *Excise Tax Act* is amended by adding the following after subsection (2):**

**Proof of electronic delivery**

**(2.1)** If, under this Act or a regulation made under this Act, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

- (a)** the officer has knowledge of the facts in the particular case;
- (b)** the notice was sent electronically to the person on a named day; and
- (c)** the officer identifies as exhibits annexed to the affidavit copies of
  - (i)** an electronic message confirming that the notice has been sent to the person, and
  - (ii)** the notice.

**(2) Subsection (1) comes into force on January 1, 2020.**

**39 (1) The portion of subsection 289(1) of the *Excise Tax Act* before paragraph (a) is replaced by the following:**

**Requirement to provide documents or information**

**289 (1)** Despite any other provision of this Part, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of a listed international agreement or this Part, including the collection of any amount payable or remittable under this Part by any person, by a notice served or sent in accordance with subsection (1.1), require that any person provide the Minister, within any reasonable time that is stipulated in the notice, with

**(2) Section 289 of the *Excise Tax Act* is amended by adding the following after subsection (1):**

**Notice**

**(1.1)** A notice referred to in subsection (1) may be

- (a)** served personally;
- (b)** sent by registered or certified mail; or
- (c)** sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (1) electronically.

**(3) Subsections (1) and (2) come into force on January 1, 2020.**

**40 (1) Paragraph 289.2(a) of the *Excise Tax Act* is replaced by the following:**

- (a)** if the person is served or sent a notice of a requirement under subsection 289(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

**(2) Subsection (1) comes into force on January 1, 2020.**

**41 (1) Subsection 292(2) of the *Excise Tax Act* is replaced by the following:**

### **Requirement to provide foreign-based information**

**(2)** Despite any other provision of this Part, the Minister may, by a notice served or sent in accordance with subsection (3.1), require a person resident in Canada or a non-resident person that carries on business in Canada to provide any foreign-based information or document.

### **(2) Section 292 of the *Excise Tax Act* is amended by adding the following after subsection (3):**

#### **Notice**

**(3.1)** A notice referred to in subsection (2) may be

- (a)** served personally;
- (b)** sent by registered or certified mail; or
- (c)** sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (2) electronically.

### **(3) Subsection 292(4) of the English version of the *Excise Tax Act* is replaced by the following:**

#### **Review of foreign information requirement**

**(4)** If a person is served or sent a notice of a requirement under subsection (2), the person may, within 90 days after the day on which the notice is served or sent, apply to a judge for a review of the requirement.

### **(4) Subsection 292(6) of the English version of the *Excise Tax Act* is replaced by the following:**

#### **Requirement not unreasonable**

**(6)** For the purposes of subsection (5), a requirement to provide information or a document shall not be considered to be unreasonable because the information or document is under the control of or available to a non-resident person that is not controlled by the person on which the notice of the requirement under subsection (2) is served, or to which that notice is sent, if that person is related to the non-resident person.

### **(5) Subsection 292(8) of the English version of the *Excise Tax Act* is replaced by the following:**

#### **Consequence of failure**

**(8)** If a person fails to comply substantially with a notice served or sent under subsection (2) and if the notice is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Part shall, on motion of the Minister, prohibit the introduction by that person of any foreign-based information or document covered by that notice.

### **(6) Subsections (1) to (5) come into force on January 1, 2020.**

### **42 (1) Section 335 of the *Excise Tax Act* is amended by adding the following after subsection (2):**

#### **Proof of electronic delivery**

**(2.1)** If, under this Part or a regulation made under this Part, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

- (a)** the officer has knowledge of the facts in the particular case;
- (b)** the notice was sent electronically to the person on a named day; and
- (c)** the officer identifies as exhibits attached to the affidavit copies of
  - (i)** an electronic message confirming that the notice has been sent to the person, and

(ii) the notice.

**(2) Subsection (1) comes into force on January 1, 2020.**

**43 (1) Subsection 38(1) of the *Air Travellers Security Charge Act* is replaced by the following:**

**Requirement to provide information**

**38 (1)** Despite any other provision of this Act, the Minister may, by a notice served or sent in accordance with subsection (2.1), require a person that is resident in Canada or a person that is not resident in Canada but that carries on business in Canada to provide any information or record.

**(2) Section 38 of the *Air Travellers Security Charge Act* is amended by adding the following after subsection (2):**

**Notice**

**(2.1)** A notice referred to in subsection (1) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or *credit union* (as defined in subsection 123(1) of the *Excise Tax Act*), that has provided written consent to receive notices under subsection (1) electronically.

**(3) Subsection 38(3) of the English version of the *Air Travellers Security Charge Act* is replaced by the following:**

**Review of information requirement**

**(3)** If a person is served or sent a notice of a requirement under subsection (1), the person may, within 90 days after the day on which the notice is served or sent, apply to a judge for a review of the requirement.

**(4) Subsection 38(5) of the *Air Travellers Security Charge Act* is replaced by the following:**

**Requirement not unreasonable**

**(5)** For the purposes of subsection (4), a requirement to provide information or a record shall not be considered to be unreasonable solely because the information or record is under the control of or available to a person that is not resident in Canada, if that person is related, for the purposes of the *Income Tax Act*, to the person on which the notice of the requirement is served or to which that notice is sent.

**(5) Subsection 38(7) of the English version of the *Air Travellers Security Charge Act* is replaced by the following:**

**Consequence of failure**

**(7)** If a person fails to comply substantially with a notice served or sent under subsection (1) and the notice is not set aside under subsection (4), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on the motion of the Minister, prohibit the introduction by that person of any information or record described in that notice.

**(6) Subsections (1) to (5) come into force on January 1, 2020.**

**44 (1) Section 83 of the *Air Travellers Security Charge Act* is amended by adding the following after subsection (2):**

### **Proof of electronic delivery**

**(2.1)** If, under this Act, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

- (a)** the officer has knowledge of the facts in the particular case;
- (b)** the notice was sent electronically to the person on a named day; and
- (c)** the officer identifies as exhibits attached to the affidavit copies of
  - (i)** an electronic message confirming that the notice has been sent to the person, and
  - (ii)** the notice.

**(2) Subsection (1) comes into force on January 1, 2020.**

**45 (1) The portion of subsection 208(1) of the *Excise Act, 2001* before paragraph (a) is replaced by the following:**

#### **Requirement to provide records or information**

**208 (1)** Despite any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of a listed international agreement or of this Act, by a notice served or sent in accordance with subsection (1.1), require any person to provide the Minister, within any reasonable time that is stipulated in the notice, with

**(2) Section 208 of the *Excise Act, 2001* is amended by adding the following after subsection (1):**

#### **Notice**

**(1.1)** A notice referred to in subsection (1) may be

- (a)** served personally;
- (b)** sent by registered or certified mail; or
- (c)** sent electronically, in the case of a *bank*, or *credit union*, as those terms are defined in subsection 123(1) of the *Excise Tax Act*, that has provided written consent to receive notices under subsection (1) electronically.

**(3) Subsections (1) and (2) come into force on January 1, 2020.**

**46 (1) Paragraph 209.1(a) of the *Excise Act, 2001* is replaced by the following:**

- (a)** if the person is served or sent a notice of a requirement under subsection 208(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

**(2) Subsection (1) comes into force on January 1, 2020.**

**47 (1) Subsection 210(2) of the *Excise Act, 2001* is replaced by the following:**

#### **Requirement to provide foreign-based information**

**(2)** Despite any other provision of this Act, the Minister may, by a notice served or sent in accordance with subsection (3.1), require a person resident in Canada or a non-resident person that carries on business in Canada to provide any foreign-based information or record.

**(2) Section 210 of the *Excise Act, 2001* is amended by adding the following after subsection (3):**

## Notice

**(3.1)** A notice referred to in subsection (2) may be

- (a)** served personally;
- (b)** sent by registered or certified mail; or
- (c)** sent electronically, in the case of a *bank*, or *credit union*, as those terms are defined in subsection 123(1) of the *Excise Tax Act*, that has provided written consent to receive notices under subsection (2) electronically.

**(3) Subsection 210(4) of the English version of the *Excise Act, 2001* is replaced by the following:**

### Review of foreign information requirement

**(4)** If a person is served or sent a notice of a requirement under subsection (2), the person may, within 90 days after the day on which the notice is served or sent, apply to a judge for a review of the requirement.

**(4) Subsection 210(6) of the English version of the *Excise Act, 2001* is replaced by the following:**

### Requirement not unreasonable

**(6)** For the purposes of subsection (5), a requirement to provide information or a record shall not be considered to be unreasonable because the information or record is under the control of or available to a non-resident person that is not controlled by the person on which the notice of the requirement is served, or to which that notice is sent, if that person is related to the non-resident person.

**(5) Subsection 210(8) of the English version of the *Excise Act, 2001* is replaced by the following:**

### Consequence of failure

**(8)** If a person fails to comply substantially with a notice served or sent under subsection (2) and the notice is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on the motion of the Minister, prohibit the introduction by that person of any foreign-based information or record described in that notice.

**(6) Subsections (1) to (5) come into force on January 1, 2020.**

**48 (1) Section 301 of the *Excise Act, 2001* is amended by adding the following after subsection (2):**

### Proof of electronic delivery

**(2.1)** If, under this Act, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

- (a)** the officer has knowledge of the facts in the particular case;
- (b)** the notice was sent electronically to the person on a named day; and
- (c)** the officer identifies as exhibits attached to the affidavit copies of
  - (i)** an electronic message confirming that the notice has been sent to the person, and
  - (ii)** the notice.

**(2) Subsection (1) comes into force on January 1, 2020.**

**49 (1) Subsection 106(1) of the *Greenhouse Gas Pollution Pricing Act* is replaced by the following:**

### **Requirement to provide information or record**

**106 (1)** Despite any other provision of this Part, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Part, by a notice served or sent in accordance with subsection (1.1), require a person resident in Canada or a person that is not resident in Canada but that is engaged in activities in Canada to provide any information or record.

### **Notice**

**(1.1)** A notice referred to in subsection (1) may be

- (a)** served personally;
- (b)** sent by confirmed delivery service; or
- (c)** sent electronically, in the case of a bank, or *credit union* (as defined in subsection 123(1) of the *Excise Tax Act*), that has provided written consent to receive notices under subsection (1) electronically.

**(2) Subsection (1) comes into force on January 1, 2020.**

**50 (1) Subsection 144(2) of the *Greenhouse Gas Pollution Pricing Act* is replaced by the following:**

### **Requirement to provide foreign-based information**

**(2)** Despite any other provision of this Part, the Minister may, by a notice served or sent in accordance with subsection (3.1), require a person resident in Canada or a non-resident person that carries on business in Canada to provide any foreign-based information or record.

**(2) Section 144 of the *Greenhouse Gas Pollution Pricing Act* is amended by adding the following after subsection (3):**

### **Notice**

**(3.1)** A notice referred to in subsection (2) may be

- (a)** served personally;
- (b)** sent by confirmed delivery service; or
- (c)** sent electronically, in the case of a bank, or *credit union* (as defined in subsection 123(1) of the *Excise Tax Act*), that has provided written consent to receive notices under subsection (2) electronically.

**(3) Subsection 144(4) of the English version of the *Greenhouse Gas Pollution Pricing Act* is replaced by the following:**

### **Review of foreign information requirement**

**(4)** If a person is served or sent a notice of a requirement under subsection (2), the person may, within 90 days after the day on which the notice was served or sent, apply to a judge for a review of the requirement.

**(4) Subsection 144(6) of the English version of the *Greenhouse Gas Pollution Pricing Act* is replaced by the following:**

### **Related person**

**(6)** For the purposes of subsection (5), a requirement to provide information or a record is not to be considered to be unreasonable because the information or record is under the control of, or available to, a non-resident person that is not controlled by the person on which the notice of the requirement under subsection (2) is served, or to which that notice is sent, if that person is related, within the meaning of section 6 of the *Excise Act, 2001*, to the non-resident person.

**(5) Subsection 144(8) of the English version of the *Greenhouse Gas Pollution Pricing Act* is replaced by the following:**

**Consequence of failure**

**(8)** If a person fails to comply substantially with a notice served or sent under subsection (2) and if the notice is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Part must, on motion of the Minister, prohibit the introduction by that person of any foreign-based information or record covered by that notice.

**(6) Subsections (1) to (5) come into force on January 1, 2020.**

**51 (1) Section 164 of the *Greenhouse Gas Pollution Pricing Act* is amended by adding the following after subsection (2):**

**Proof of electronic delivery**

**(2.1)** If, under this Part, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

- (a)** the officer has knowledge of the facts in the particular case;
- (b)** the notice was sent electronically to the person on a named day; and
- (c)** the officer identifies as exhibits attached to the affidavit copies of
  - (i)** an electronic message confirming that the notice has been sent to the person, and
  - (ii)** the notice.

**(2) Subsection (1) comes into force on January 1, 2020.**

## Accelerated Capital Cost Allowance for Zero-Emission Vehicles

**52 (1) Clause (B) of the description of B in the formula in subparagraph 13(7)(i)(ii) of the Act is replaced by the following:**

**(B)** in any other case, the amount determined for C, and

**(2) The description of C in the formula in subparagraph 13(7)(i)(ii) of the Act is replaced by the following:**

**C** is the amount determined by the formula

$$D + (E + F) - (G + H)$$

where

- D** is the cost to the taxpayer of the vehicle,
- E** is the amount determined under paragraph (7.1)(d) in respect of the vehicle at the time of disposition,
- F** is the maximum amount determined for C in the definition *undepreciated capital cost* in subsection (21) in respect of the vehicle,
- G** is the amount determined under paragraph (7.1)(f) in respect of the vehicle at the time of disposition, and
- H** is the maximum amount determined for J in the definition *undepreciated capital cost* in subsection (21) in respect of the vehicle.

**(3) Subsections (1) and (2) apply in respect of dispositions made on or after Announcement Date.**

## Character Conversion Transactions

**53 (1) Subparagraph (b)(i) of the definition *derivative forward agreement* in subsection 248(1) of the Act is replaced by the following:**

(i) revenue, income or cashflow in respect of the property over the term of the agreement, changes in the fair market value of the property over the term of the agreement, or any similar criteria in respect of the property unless

(A) the property is

(I) a *Canadian security* (in this subparagraph as defined in subsection 39(6)), or

(II) an interest in a partnership the fair market value of which is derived, in whole or in part, from a Canadian security,

(B) the agreement is an agreement to acquire property from

(I) a tax-indifferent investor, or

(II) a *financial institution* (as defined in subsection 142.2(1)), and

(C) it can reasonably be considered that one of the main purposes of the series of transactions or events, or any transaction or event in the series, of which the agreement is part is for all or any portion of the capital gain on a disposition (other than a disposition by the seller to the taxpayer under the agreement) of a Canadian security referred to in clause (A) — as part of the same series of transactions or events — to be attributable to amounts paid or payable on the Canadian security by the issuer of the Canadian security during the term of the agreement as

(I) interest,

(II) dividends, or

(III) income of a trust other than income paid out of the taxable capital gains of the trust,

**(2) Paragraph (b) of the definition *tax-indifferent investor* in subsection 248(1) of the Act is replaced by the following:**

(b) a non-resident person, other than a person to which all amounts paid or credited under a derivative forward agreement, a synthetic equity arrangement or a specified synthetic equity arrangement, as the case may be, may reasonably be attributed to the business carried on by the person in Canada through a permanent establishment (as defined by regulation) in Canada,

**(3) Subsection (1) is deemed to have come into force on March 19, 2019. However, it does not apply before 2020 in respect of**

(a) an agreement that is entered into after the final settlement of another derivative forward agreement (in this paragraph referred to as the “prior agreement”) if

(i) having regard to the source of the funds used to purchase the property to be sold under the agreement, it is reasonable to conclude that the agreement is a continuation of the prior agreement,

(ii) the terms of the agreement and the prior agreement are substantially similar,

(iii) the final settlement date under the agreement is before 2020,

(iv) subsection (1) does not apply to the prior agreement, and



(v) the notional amount of the agreement is at all times less than or equal to the amount determined by the formula

$$(A + B + C + D + E) - (F + G)$$

where

- A is the notional amount of the agreement when it is entered into,
  - B is the total of all amounts each of which is an increase in the notional amount of the agreement, at or before that time, that is attributable to the underlying interest,
  - C is the amount of the taxpayer's cash on hand immediately before March 19, 2019 that was committed, before March 19, 2019, to be invested under the agreement,
  - D is the total of all amounts each of which is an increase, at or before that time, in the notional amount of the agreement that is attributable to the final settlement of another derivative forward agreement if subsection (1) does not apply to the other agreement,
  - E is the lesser of
    - (A) either
      - (I) if the prior agreement was entered into before March 19, 2019, the amount, if any, by which the amount determined under subparagraph (i) of the description of F in paragraph (b) for the prior agreement immediately before it was finally settled exceeds the total determined under subparagraph (ii) of the description of F in paragraph (b) for the prior agreement immediately before it was finally settled, or
      - (II) in any other case, the amount, if any, by which the amount determined under this clause for the prior agreement immediately before it was finally settled exceeds the total determined under clause (B) for the prior agreement immediately before it was finally settled, and
    - (B) the total of all amounts each of which is an increase in the notional amount of the agreement before 2020 that is not otherwise described in this formula,
  - F is the total of all amounts each of which is a decrease in the notional amount of the agreement, at or before that time, that is attributable to the underlying interest, and
  - G is the total of all amounts each of which is the amount of a partial settlement of the agreement, at or before that time, to the extent that it is not reinvested in the agreement; or
- (b) an agreement that is entered into before March 19, 2019, unless at any time on or after March 19, 2019, the notional amount of the agreement exceeds the amount determined by the formula

$$(A + B + C + D + E + F) - (G + H)$$

where

- A is the notional amount of the agreement immediately before March 19, 2019,
- B is the total of all amounts each of which is an increase in the notional amount of the agreement, on or after March 19, 2019 and at or before that time, that is attributable to the underlying interest,
- C is the amount of the taxpayer's cash on hand immediately before March 19, 2019 that was committed, before March 19, 2019, to be invested under the agreement,
- D is the amount, if any, of an increase, on or after March 19, 2019 and at or before that time, in the notional amount of the agreement as a consequence of the exercise of an over-allotment option granted before March 19, 2019,

- E** is the total of all amounts each of which is an increase, on or after March 19, 2019 and at or before that time, in the notional amount of the agreement that is attributable to the final settlement of another derivative forward agreement if subsection (1) does not apply to the other agreement,
- F** is the lesser of
  - (i) 5% of the notional amount of the agreement immediately before March 19, 2019, and
  - (ii) the total of all amounts each of which is an increase in the notional amount of the agreement on or after March 19, 2019 and before 2020 that is not otherwise described in this formula,
- G** is the total of all amounts each of which is a decrease in the notional amount of the agreement, on or after March 19, 2019 and at or before that time, that is attributable to the underlying interest, and
- H** is the total of all amounts each of which is the amount of a partial settlement of the agreement, on or after March 19, 2019 and at or before that time, to the extent that it is not reinvested in the agreement.

**(4)** For the purposes of subsection (3), the notional amount of a derivative forward agreement at any time is the fair market value at that time of the property that would be acquired under the agreement if the agreement were finally settled at that time.

**(5)** Subsection (2) is deemed to have come into force on March 19, 2019.

## Transfer Pricing Measures

### Order of Application of the Transfer Pricing Rules

**54 (1)** The portion of subsection 247(2) of the Act after subparagraph (b)(ii) and before paragraph (c) is replaced by the following:

any amounts (in subsection (2.1) referred to as the “initial amounts”) that would be determined for the purposes of this Act (if this Act were read without reference to this section and section 245) in respect of the taxpayer or the partnership for a taxation year or fiscal period shall be adjusted (in this section referred to as an “adjustment”) to the quantum or nature of the amounts (in subsection (2.1) referred to as the “adjusted amounts”) that would have been determined if,

**(2)** Section 247 of the Act is amended by adding the following after subsection (2):

### Ordering

**(2.1)** For the purpose of applying subsection (2) in the context of the other provisions of this Act, the following order is to be applied:

- (a)** first determine each of the initial amounts;
- (b)** then make the adjustments, if any, to each of the initial amounts; and
- (c)** then apply each of the provisions of this Act (other than subsection (2) and, for greater certainty, including section 245) using the adjusted amounts.

**(3)** Subsection 247(8) of the Act is repealed.

**(4)** Subsections (1) to (3) apply to taxation years that begin after March 18, 2019.

### Applicable Reassessment Period

**55 (1)** Clause 152(4)(b)(iii)(A) of the Act is replaced by the following:

**(A)** as a consequence of a *transaction* (as defined in subsection 247(1)) involving the taxpayer and a non-resident person with whom the taxpayer was not dealing at arm's length, or

**(2) Subsection (1) applies to taxation years of a taxpayer in respect of which the *normal reassessment period* (as defined in subsection 152(3.1) of the Act) for the taxpayer ends on or after March 19, 2019.**

## Foreign Affiliate Dumping

**56 (1) Subsection 17.1(2) of the Act is replaced by the following:**

### Acquisition of control

**(2)** If at any time a parent or group of parents referred to in section 212.3 acquires control of a CRIC and the CRIC was not controlled by a non-resident person, or a group of non-resident persons not dealing with each other at arm's length, immediately before that time, no amount is to be included under subsection (1) in computing the income of the CRIC in respect of a *pertinent loan or indebtedness* (as defined in subsection 212.3(11)) for the period that begins at that time and ends on the day that is 180 days after that time.

**(2) Subsection (1) applies in respect of transactions or events that occur on or after March 19, 2019.**

**57 (1) The portion of paragraph 128.1(1)(c.3) of the Act before subparagraph (i) is replaced by the following:**

### Foreign affiliate dumping — immigrating corporation

**(c.3)** if the taxpayer is a corporation that was, immediately before the particular time, controlled by one non-resident person or, if no single non-resident person controlled the CRIC, a group of non-resident persons not dealing with each other at arm's length (in this section, that one non-resident person, or each member of the group of non-resident persons, as the case may be, is referred to as a "parent", and the group of non-resident persons, if any, is referred to as the "group of parents") and the taxpayer owned, immediately before the particular time, one or more shares of one or more non-resident corporations (each of which is in this paragraph referred to as a "subject affiliate") that, immediately after the particular time, were — or that became, as part of a transaction or event or series of transactions or events that includes the taxpayer having become resident in Canada — foreign affiliates of the taxpayer, then

**(2) Subparagraph 128.1(1)(c.3)(ii) of the Act is replaced by the following:**

**(ii)** for the purposes of Part XIII, the taxpayer is deemed, immediately after the particular time, to have paid to each parent, and each parent is deemed, immediately after the particular time, to have received from the taxpayer, a dividend in an amount determined by the formula

$$(A - B) \times C/D$$

where

**A** is the amount determined under clause (B) of the description of A in subparagraph (i),

**B** is the amount determined under clause (A) of the description of A in subparagraph (i),

**C** is the fair market value, immediately after the particular time, of the shares of the capital stock of the taxpayer that are held, directly or indirectly, by the parent, and

**D** is total of all amounts each of which is the fair market value, immediately after the particular time, of the shares of the capital stock of the taxpayer that are held, directly or indirectly, by a parent.

**(3) Subsections (1) and (2) apply in respect of transactions or events that occur on or after March 19, 2019.**

**58 (1) The portion of paragraph 212.3(1)(b) of the Act before clause (i)(A) is replaced by the following:**

**(b)** the CRIC or an other Canadian corporation is immediately after the investment time, or becomes after the investment time and as part of a transaction or event or series of transactions or events that includes the making of the investment, controlled by one non-resident person or, if no single non-resident person controls the CRIC, by a group of non-resident persons not dealing with each other at arm's length (in this section, that one non-resident person, or each member of the group of non-resident persons, as the case may be, is referred to as a "parent", and the group of non-resident persons, if any, is referred to as the "group of parents"), and any of the following conditions is satisfied:

**(i)** if, at the investment time, a parent owned all shares of the capital stock of the CRIC and the other Canadian corporation, if applicable, that are owned — determined without reference to paragraph (25)(b) in the case of partnerships referred to in this subparagraph and as if all rights referred to in paragraph 251(5)(b), of the parent, each person that does not deal at arm's length with the parent and all of those partnerships, were immediate and absolute and the parent and each of the other persons and partnerships had exercised those rights at the investment time — by the parent, persons that are not dealing at arm's length with the parent and partnerships of which the parent or a person that is not dealing at arm's length with the parent is a member (other than a limited partner within the meaning assigned by subsection 96(2.4)), the parent would own shares of the capital stock of the CRIC or the other Canadian corporation that

**(2) Paragraph 212.3(2)(a) of the Act is replaced by the following:**

**(a)** for the purposes of this Part and subject to subsections (3) and (7), the CRIC is deemed to have paid to each parent, and each parent is deemed to have received from the CRIC, at the dividend time, a dividend in an amount determined by the formula

$$A \times B/C$$

where

**A** is the total of all amounts each of which is the portion of the fair market value at the investment time of any property (not including shares of the capital stock of the CRIC) transferred, any obligation assumed or incurred, or any benefit otherwise conferred, by the CRIC, or of any property transferred to the CRIC which transfer results in the reduction of an amount owing to the CRIC, that can reasonably be considered to relate to the investment,

**B** is

**(i)** if there is one parent, one, and

**(ii)** if there is a group of parents, the fair market value at the dividend time of the shares of the capital stock of the CRIC that are held, directly or indirectly, by the parent, and

**C** is

**(i)** if there is one parent, one, and

**(ii)** if there is a group of parents, the total of all amounts each of which is the fair market value at the dividend time of the shares of the capital stock of the CRIC that are held, directly or indirectly, by a parent; and

**(3) Subsection 212.3(3) of the Act is replaced by the following:**

**Dividend substitution election**

**(3)** If a CRIC (or a CRIC and a corporation that is a qualifying substitute corporation in respect of the CRIC at the dividend time) and a parent (or a parent and another non-resident person that at the dividend time is related to the parent) jointly elect in writing under this subsection in respect of an investment, and the election is filed with the Minister on or before the filing-due date of the CRIC for its taxation year that includes the dividend time, then the dividend that would, in the absence of this subsection, be deemed under paragraph (2)(a) to have been paid by the CRIC to the parent and received by the parent from the CRIC is deemed to have instead been

**(a)** paid by the CRIC or the qualifying substitute corporation, as agreed on in the election; and

**(b)** paid to, and received by, the parent or the other non-resident person, as agreed on in the election.

**(4) Subsection 212.3(4) of the Act is replaced by the following:**

## Definitions

**(4)** The following definitions apply in this section.

**cross-border class**, in respect of an investment, means a class of shares of the capital stock of a CRIC or qualifying substitute corporation if, immediately after the dividend time in respect of the investment,

**(a)** a parent, or a non-resident person that does not deal at arm's length with a parent, owns at least one share of the class; and

**(b)** no more than 30% of the issued and outstanding shares of the class are owned by one or more persons resident in Canada that do not deal at arm's length with a parent. (*catégorie transfrontalière*)

**dividend time**, in respect of an investment, means

**(a)** if the CRIC is controlled by a parent or group of parents at the investment time, the investment time; and

**(b)** in any other case, the earlier of

**(i)** the first time, after the investment time, at which the CRIC is controlled by a parent or group of parents, as the case may be, and

**(ii)** the day that is one year after the day that includes the investment time. (*moment du dividende*)

**qualifying substitute corporation**, at any time in respect of a CRIC, means a corporation resident in Canada

**(a)** that is, at that time, controlled by

**(i)** a parent,

**(ii)** a group of parents, or

**(iii)** a non-resident person that does not deal at arm's length with a parent;

**(b)** that has, at that time, an equity percentage (as defined in subsection 95(4)) in the CRIC; and

**(c)** shares of the capital stock of which are, at that time, owned by a parent or another non-resident person with which the parent does not, at that time, deal at arm's length. (*société de substitution admissible*)

**(5) Subsection 212.3(5.1) of the Act is replaced by the following:**

### Sequential investments — paragraph (10)(f)

**(5.1)** In the case of an investment (in this subsection referred to as the “second investment”) in a subject corporation by a CRIC described in paragraph (10)(f), the amount determined for A in paragraph (2)(a) in respect of the second investment is to be reduced by the amount determined for A in paragraph (2)(a) in respect of a prior investment (in this subsection referred to as the “first investment”) in the subject corporation by another corporation resident in Canada if

**(a)** the first investment is an investment that is described in paragraph (10)(a) or (b) and to which paragraph (2)(a) applies;

**(b)** immediately after the investment time in respect of the first investment, the other corporation is not controlled by,

**(i)** if there is one parent in respect of the CRIC, the parent, and

**(ii)** if there is a group of parents in respect of the CRIC, the group of parents; and

(c) the other corporation becomes, after the time that is immediately after the investment time in respect of the first investment and as part of a transaction or event or series of transactions or events that includes the making of the first investment, controlled by the parent or group of parents, as the case may be, because of the second investment.

**(6) The portion of paragraph 212.3(6)(a) of the Act before subparagraph (i) is replaced by the following:**

(a) a particular corporation resident in Canada that does not deal at arm's length with a parent

**(7) The portion of clause 212.3(6)(a)(ii)(B) of the act before subclause (I) is replaced by the following:**

(B) the increase in paid-up capital in respect of the particular class can reasonably be considered to be connected to funding provided to the particular corporation or another corporation resident in Canada (other than the corporation that issued the particular class) by a parent or a non-resident person that does not deal at arm's length with a parent, unless

**(8) The portion of subparagraph 212.3(7)(a)(i) of the Act before clause (A) is replaced by the following:**

(i) the amount determined, without reference to this subsection, for A in paragraph (2)(a), is reduced by the lesser of

**(9) The portion of paragraph 212.3(7)(b) of the Act before subparagraph (ii) is replaced by the following:**

(b) where the amount determined, without reference to this paragraph, for A in paragraph (2)(a) is equal to or greater than the total of all amounts each of which is an amount of paid-up capital immediately after the dividend time, determined without reference to this paragraph, of a cross-border class in respect of the investment, then

(i) the amount determined, without reference to this paragraph, for A in paragraph (2)(a) is reduced by the total referred to in this paragraph, and

**(10) Paragraphs 212.3(7)(c) and (d) of the Act are replaced by the following:**

(c) where paragraph (b) does not apply and there is at least one cross-border class in respect of the investment,

(i) the amount determined, without reference to this paragraph, for A in paragraph (2)(a) is reduced to nil,

(ii) in computing, at any time after the dividend time, the paid-up capital in respect of a particular cross-border class in respect of the investment, there is to be deducted the amount, if any, that when added to the total of all amounts that are deducted under this paragraph in computing the paid-up capital of other cross-border classes, results in the greatest total reduction because of this paragraph, immediately after the dividend time, of the paid-up capital in respect of shares of cross-border classes that are owned by a parent or another non-resident person with which a parent does not, at the dividend time, deal at arm's length,

(iii) if the proportion of the shares of a particular class owned, in aggregate, by parents and non-resident persons that do not deal at arm's length with parents is equal to the proportion so owned of one or more other cross-border classes (in this subparagraph all those classes, together with the particular class, referred to as the "relevant classes"), then the proportion that the reduction under subparagraph (ii) to the paid-up capital in respect of the particular class is of the paid-up capital, determined immediately after the dividend time and without reference to this paragraph, in respect of that class is to be equal to the proportion that the total reduction under subparagraph (ii) to the paid-up capital in respect of all the relevant classes is of the total paid-up capital, determined immediately after the dividend time and without reference to this paragraph, of all the relevant classes, and

(iv) the total of all amounts each of which is an amount to be deducted under subparagraph (ii) in computing the paid-up capital of a cross-border class is to be equal to the amount by which the amount determined for A in paragraph (2)(a) is reduced under subparagraph (i); and

(d) if the amount determined for A in paragraph (2)(a) is reduced because of any of subparagraphs (a)(i), (b)(i) and (c)(i),

(i) the CRIC shall file with the Minister in prescribed manner a form containing prescribed information and the amounts of the paid-up capital, determined immediately after the dividend time and without reference to this subsection, of each class of shares that is described in paragraph (a) or that is a cross-border class in respect of the investment, the paid-up capital of the shares of each of those classes that are owned by a parent or another non-resident person that does not, at the dividend time, deal at arm's length with a parent, and the reduction under any of subparagraphs (a)(ii), (b)(ii) and (c)(ii) in respect of each of those classes, and

(ii) if the form is not filed on or before the CRIC's filing-due date for its taxation year that includes the dividend time, the CRIC is deemed to have paid to each parent, and each parent is deemed to have received from the CRIC, on the filing-due date, a dividend equal to the total of all amounts each of which is the amount of a reduction because of any of subparagraphs (a)(i), (b)(i) and (c)(i) in the amount the CRIC is deemed under paragraph (2)(a) to have paid to the parent.

**(11) The portion of paragraph 212.3(11)(c) of the Act before subparagraph (i) is replaced by the following:**

(c) the CRIC and each parent jointly elect in writing under this paragraph in respect of the amount owing and file the election with the Minister on or before the filing-due date of the CRIC

**(12) Paragraphs 212.3(15)(a) and (b) of the Act are replaced by the following:**

(a) a CRIC or a taxpayer to which paragraph 128.1(1)(c.3) applies (in this subsection referred to as the "specific corporation"), that would, in the absence of this subsection, be controlled at any time

(i) by more than one non-resident person, is deemed not to be controlled at that time by any such non-resident that controls at that time another non-resident person that controls at that time the specific corporation, unless the application of this paragraph would otherwise result in no non-resident person controlling the specific corporation, and

(ii) by a particular non-resident corporation is deemed not to be controlled at that time by the particular non-resident corporation if the particular non-resident corporation is controlled at that time by another corporation that is at that time

(A) resident in Canada, and

(B) not controlled by any non-resident person or group of non-resident persons not dealing with each other at arm's length; and

(b) a non-resident person is deemed not to be a member of a particular group of non-resident persons not dealing with each other at arm's length that controls the specific corporation if

(i) the non-resident person would, absent the application of this paragraph, be a member of the particular group, and

(ii) the non-resident person is a member of the particular group solely because it controls, or is a member of a group that controls, another member of the particular group.

**(13) The portion of paragraph 212.3(16)(a) before subparagraph (i) is replaced by the following:**

(a) the business activities carried on by the subject corporation and all other corporations (those other corporations in this subsection and subsection (17) referred to as the "subject subsidiary corporations") in which the subject corporation has, at the investment time, an equity percentage (as defined in subsection 95(4)) are at the investment time, and are expected to remain, on a collective basis, more closely connected to the business activities carried on in Canada by the CRIC, or by any corporation resident in Canada with which the CRIC does not, at the investment time, deal at arm's length, than to the business activities carried on by any non-resident person with which the CRIC, at the investment time, does not deal at arm's length, other than

**(14) Paragraph 212.3(18)(a) of the Act is replaced by the following:**

**(a)** the investment is described in paragraph (10)(a) or (d) and is an acquisition of shares of the capital stock, or a debt obligation, of the subject corporation

**(i)** from a corporation resident in Canada (in this paragraph referred to as the “disposing corporation”) to which the CRIC is, immediately before the investment time, related (determined without reference to paragraph 251(5)(b)), and

**(A)** each shareholder of the disposing corporation immediately before the investment time is,

**(I)** if there is only one parent in respect of the CRIC,

**1** either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

**2** at no time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm’s length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

**(II)** if there is a group of parents in respect of the CRIC,

**1** either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

**2** at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

**(B)** the disposing corporation is,

**(I)** if there is only one parent in respect of the CRIC, at no time that is in the period and that is before the investment time, dealing at arm’s length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

**(II)** if there is a group of parents in respect of the CRIC, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

**(ii)** on an amalgamation described in subsection 87(1) of two or more corporations (each of which is in this subparagraph referred to as a “predecessor corporation”) to form the CRIC if all of the predecessor corporations are, immediately before the amalgamation, related to each other (determined without reference to paragraph 251(5)(b)) and

**(A)** either

**(I)** if there is only one parent in respect of the CRIC, none of the predecessor corporations are, at any time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm’s length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

**(II)** if there is a group of parents in respect of the CRIC, all of the predecessor corporations are, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or



**(B)** if the condition in clause (A) is not satisfied in respect of a predecessor corporation, each shareholder of that predecessor immediately before the investment time is,

**(I)** if there is only one parent in respect of the CRIC,

**1** either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

**2** at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

**(II)** if there is a group of parents in respect of the CRIC,

**1** either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

**2** at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents;

**(15) The portion of paragraph 212.3(18)(c) of the Act before subparagraph (iii) is replaced by the following:**

**(c)** the investment is an indirect acquisition referred to in paragraph (10)(f) that results from a direct acquisition of shares of the capital stock of another corporation resident in Canada

**(i)** from a corporation (in this paragraph referred to as the "disposing corporation") to which the CRIC is, immediately before the investment time, related (determined without reference to paragraph 251(5)(b)) and

**(A)** each shareholder of the disposing corporation immediately before the investment time is

**(I)** if there is only one parent in respect of the CRIC,

**1** either the CRIC or a corporation resident in Canada that, immediately before the investment time, is related to the parent, and

**2** at no time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

**(II)** if there is a group of parents in respect of the CRIC,

**1** either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

**2** at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

**(B)** the disposing corporation is,

(I) if there is only one parent in respect of the CRIC, at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(ii) on an amalgamation described in subsection 87(1) of two or more corporations (each of which is in this subparagraph referred to as a "predecessor corporation") to form the CRIC, or a corporation of which the CRIC is a shareholder, if all of the predecessor corporations are, immediately before the amalgamation, related to each other (determined without reference to paragraph 251(5)(b)) and

(A) either

(I) if there is only one parent in respect of the CRIC, none of the predecessor corporations are, at any time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(II) if there is a group of parents in respect of the CRIC, all of the predecessor corporations are, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(B) if the condition in clause (A) is not satisfied in respect of a predecessor corporation, each shareholder of that predecessor immediately before the investment time is

(I) if there is only one parent in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

2 at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

2 at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents;

**(16) Subsection 212.3(21) is replaced by the following:**

**Persons deemed not to be related**

(21) If it can reasonably be considered that one of the main purposes of one or more transactions or events is to cause two or more persons to be related to each other, or a person or group of persons to control another person, so that, in the absence of this subsection, subsection (2) would not apply because of subsection (18) to an investment in a subject corporation made by a CRIC, those persons are deemed not to be related to each other, or that person or group of persons is deemed not to control that other person, as the case may be, for the purposes of subsection (18).

**(17) Section 212.3 of the Act is amended by adding the following after subsection (25):**

**Trusts**

**(26)** For the purposes of this section, subsection 17.1(1) (as it applies in respect of a *pertinent loan or indebtedness* as defined in subsection (11)), paragraph 128.1(1)(c.3) and subsection 219.1(2), and for the purpose of paragraph 251(1)(a) as it applies for the purposes of those provisions,

**(a)** in determining, at any time, whether two persons are related to each other or whether any person is controlled by any other person or group of persons, it shall be assumed that

**(i)** each trust is a corporation having a capital stock of a single class of voting shares divided into 100 issued shares, and

**(ii)** each beneficiary under a trust owned at that time the number of issued shares of that class determined by the formula

$$A/B \times 100$$

where

**A** is the fair market value at that time of the beneficiary's interest in the trust, and

**B** is the total fair market value at that time of all beneficiaries' interests in the trust;

**(b)** in determining, at any time, the extent to which any person owns shares of the capital stock of a corporation, if at that time a trust resident in Canada owns (determined without reference to this paragraph) shares of the capital stock of the corporation, each beneficiary of the trust is deemed to own, and the trust is deemed not to own, at that time, the shares of each class of the capital stock of the corporation that are owned (determined without reference to this paragraph) by the trust, 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 are owned (determined without reference to this paragraph) by the trust at that time,

**B** is the fair market value, at that time, of the beneficiary's interest in the trust, and

**C** is the total fair market value, at that time, of all beneficiaries' interests in the trust; and

**(c)** if a beneficiary's share of the income or capital of a trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power, then the amounts determined for A and B in paragraph (a), and for B and C in paragraph (b), in respect of the beneficiary are deemed to be equal to one, unless

**(i)** the trust is resident in Canada, and

**(ii)** it cannot reasonably be considered that one of the main reasons for the discretionary power is to avoid or limit the application of paragraph 128.1(1)(c.3) or subsection 212.3(2) or 219.1(2).

**(18) Subsections (1) to (17) apply in respect of transactions or events that occur on or after March 19, 2019.**

**59 (1) Paragraph 219.1(2)(b) of the Act is replaced by the following:**

**(b)** the other corporation is controlled, at that time, by a non-resident person or a group of non-resident persons not dealing with each other at arm's length; and

**(2) Subsection (1) applies in respect of transactions or events that occur on or after March 19, 2019.**

## Cross-Border Share Lending Arrangements

### **60 (1) Subsection 212(2.1) of the Act is replaced by the following:**

#### **Exempt dividends**

**(2.1)** Subsection (2) does not apply to an amount paid or credited, by a borrower, under a securities lending arrangement or a specified securities lending arrangement if

- (a)** the amount is deemed by subparagraph 260(8)(a)(ii) to be a dividend;
- (b)** either
  - (i)** the arrangement is a fully collateralized arrangement, or
  - (ii)** the borrower and the lender are dealing at arm's length; and
- (c)** the security that is transferred or lent to the borrower under the securities lending arrangement is a share of a class of the capital stock of a non-resident corporation.

### **(2) Paragraph (d) of the definition *fully exempt interest* in subsection 212(3) of the Act is replaced by the following:**

- (d)** an amount paid or payable or credited under a securities lending arrangement, or a specified securities lending arrangement, that is deemed by subparagraph 260(8)(a)(i) to be a payment made by a borrower to a lender of interest, if the arrangement is a fully collateralized arrangement, and
  - (i)** the following conditions are met:
    - (A)** the arrangement was entered into by the borrower in the course of carrying on a business outside Canada, and
    - (B)** the security that is transferred or lent to the borrower under the arrangement is described in paragraph (b) of the definition *qualified security* in subsection 260(1) and issued by a non-resident issuer,
  - (ii)** the security that is transferred or lent to the borrower under the arrangement is described in paragraph (c) of the definition *qualified security* in subsection 260(1), or
  - (iii)** the security that is transferred or lent to the borrower under the arrangement is described in paragraph (a) or (b).

### **(3) Subsections (1) and (2) apply in respect of amounts paid or payable or credited on or after March 19, 2019.**

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

***fully collateralized arrangement*** means a securities lending arrangement or a specified securities lending arrangement if, throughout the term of the arrangement, the borrower

- (a)** has provided the lender under the arrangement with money in an amount of, or securities described in paragraph (c) of the definition *qualified security* in subsection 260(1) that have a fair market value of, not less than 95% of the fair market value of the security that is transferred or lent under the arrangement, and
- (b)** is entitled to enjoy, directly or indirectly, the benefits of all or substantially all income derived from, and opportunity for gain in respect of, the money or securities provided; (*mécanisme entièrement garanti*)

***specified securities lending arrangement*** has the meaning assigned by subsection 260(1); (*mécanisme de prêt de valeurs mobilières déterminé*)

**(2) Subsection (1) is deemed to have come into force on March 19, 2019.**

**62 (1) Section 260 of the Act is amended by adding the following after subsection (1.1):**

**References — borrower and lender**

**(1.2)** For the purposes of subsections (8), (8.1), (8.2), (8.3) and (9.1) and 212(2.1) and (3), in respect of a specified securities lending arrangement,

- (a)** a reference to a borrower includes a transferee; and
- (b)** a reference to a lender includes a transferor.

**(2) Subsection 260(8) of the Act is replaced by the following:**

**Non-resident withholding tax**

**(8)** For the purpose of Part XIII, any amount paid or credited under a securities lending arrangement or a specified securities lending arrangement by or on behalf of the borrower to the lender

- (a)** as an SLA compensation payment in respect of a security that is not a qualified trust unit is, subject to paragraph (c), deemed
  - (i)** to the extent of the amount of the interest paid in respect of the security, to be a payment made by the borrower to the lender of interest, and
  - (ii)** to the extent of the amount of the dividend paid in respect of the security, to be a payment made by the borrower, as a corporation, to the lender of a dividend payable on the security;
- (b)** as an SLA compensation payment in respect of a security that is a qualified trust unit, is deemed, to the extent of the amount of the underlying payment to which the SLA compensation payment relates, to be an amount paid by the trust and having the same character and composition as the underlying payment;
- (c)** as an SLA compensation payment is deemed to be a payment of interest made by the borrower to the lender, if
  - (i)** the security that is transferred or lent to the borrower under the arrangement is a share of a class of the capital stock of a non-resident corporation,
  - (ii)** the borrower and the lender are not dealing at arm's length, and
  - (iii)** the arrangement is not a fully collateralized arrangement; and
- (d)** as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security is deemed to be a payment of interest made by the borrower to the lender.

**(3) The portion of subsection 260(8.1) of the Act before paragraph (a) is replaced by the following:**

**Deemed fee for borrowed security**

**(8.1)** For the purpose of paragraph (8)(d), if under a securities lending arrangement or a specified securities lending arrangement the borrower has at any time provided the lender with money, either as collateral or consideration for the security, and the borrower does not, under the arrangement, pay or credit a reasonable amount to the lender as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security, the borrower is deemed to have, at the time that an identical or substantially identical security is or can reasonably be expected to be transferred or returned to the lender, paid to the lender under the arrangement an amount as a fee for the use of the security equal to the amount, if any, by which

**(4) Subsection 260(8.2) of the Act is replaced by the following:**

**Effect for tax treaties – interest**

**(8.2)** In applying subparagraph (8)(a)(i), if a securities lending arrangement or specified securities lending arrangement is a fully collateralized arrangement, any SLA compensation payment deemed to be a payment made by the borrower to the lender of interest is deemed for the purposes of any tax treaty to be payable on the security.

**(5) Section 260 of the Act is amended by adding the following after subsection (8.2):**

**Effect for tax treaties – dividend**

**(8.3)** In applying subparagraph (8)(a)(ii), if the security is a share of a class of the capital stock of a corporation resident in Canada (in this subsection referred to as the “Canadian share”), for the purposes of determining the rate of tax that Canada may impose on a dividend because of the dividend article of a tax treaty,

**(a)** any SLA compensation payment deemed to be a payment made by the borrower to the lender of a dividend is deemed to be paid by the issuer of the Canadian share and not by the borrower;

**(b)** the lender is deemed to be the beneficial owner of the Canadian share; and

**(c)** the shares of the capital stock of the issuer owned by the lender are deemed to give it less than 10% of the votes that could be cast at an annual meeting of the shareholders of the issuer and have less than 10% of the fair market value of all of the issued and outstanding shares of the capital stock of the issuer, if

**(i)** the securities lending arrangement or the specified securities lending arrangement is not a fully collateralized arrangement, and

**(ii)** the borrower and the lender are not dealing at arm’s length.

**(6) Subsection 260(9.1) of the Act is replaced by the following:**

**Non-arm’s length compensation payment**

**(9.1)** For the purpose of Part XIII, if the lender under a securities lending arrangement or a specified securities lending arrangement is not dealing at arm’s length with either the borrower under the arrangement or the issuer of the security that is transferred or lent under the arrangement, or both, and subsection (8) deems an amount to be a payment of interest by a person to the lender, the lender is deemed, in respect of that payment, not to be dealing at arm’s length with that person.

**(7) Subsection (1) is deemed to have come into force on March 19, 2019.**

**(8) Subsections (2) to (6) apply in respect of amounts paid or credited as SLA compensation payments on or after March 19, 2019. However, subsections (2) to (6) do not apply in respect of amounts paid or credited as SLA compensation payments on or after March 19, 2019 and before October 2019, if they are pursuant to a written arrangement entered into before March 19, 2019.**

