

## **Preface**

These explanatory notes describe proposed amendments to the *Income Tax Act* and related Regulations. These explanatory notes describe the proposed amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors.

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Minister of Finance

These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

## **Amendments to the Income Tax Act and to Related Regulations**

### **Income Tax Act**

#### **Clause 1**

##### **Eligible Child**

ITA  
63(3)

Subsection 63(3) of the *Income Tax Act* (the “Act”) contains the definition “eligible child” for the purpose of the child care expense deduction. One of the criteria used in determining the eligibility of a child for this deduction is whether the child's income exceeds the basic personal amount, below which income can be earned on a tax-free basis.

Consequential on the introduction of the new basic personal amount calculation in new subsection 118(1.1), paragraph (b) of this definition is amended so that its income test refers to the unreduced maximum basic personal amount, which is the amount determined for F in new subsection 118(1.1).

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2020 and subsequent taxation years.

#### **Clause 2**

##### **Preferred Beneficiary**

ITA  
108(1)

Section 108 of the Act sets out certain definitions and rules concerning the taxation of trusts and their beneficiaries.

Subsection 108(1) contains the definition “preferred beneficiary.” Under the preferred beneficiary election in subsection 104(14), certain amounts of income otherwise taxable at the trust level can be allocated to a preferred beneficiary. In general, individuals must qualify for the disability tax credit to be a preferred beneficiary. However, adults not qualifying for the disability tax credit who are nevertheless dependent on another person because of mental or physical infirmity can qualify as preferred beneficiaries if their income (determined before allocations under the preferred beneficiary election) is below the basic personal amount.

Consequential on the introduction of the new basic personal amount calculation in new subsection 118(1.1), clause (a)(ii)(B) in this definition is amended to refer to the amount determined for F in subsection 118(1.1) (i.e., the maximum basic personal amount).

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2020 and subsequent taxation years.

### **Clause 3**

#### **Annual adjustment**

ITA  
117.1(1)

Subsection 117.1(1) of the Act provides for the indexing of various amounts in the Act, based on annual increases to the Consumer Price Index.

Subsection 117.1(1) is amended to provide for the indexation of the base amount and maximum amount in the new basic personal amount calculation (*i.e.*, the description of A and paragraph (d) of the description of F in new subsection 118(1.1)). For more information, see the commentary on new subsection 118(1.1).

This amendment applies to the 2021 and subsequent taxation years in respect of the description of A and to the 2024 and subsequent taxation years in respect of paragraph (d) of the description of F.

### **Clause 4**

#### **Personal Credits**

ITA  
118(1)B(a)

Paragraph (a) of the description of B in the formula in subsection 118(1) of the Act provides a tax credit to individuals who are married or in a common-law partnership. Consequential on the introduction of the new basic personal amount calculation in subsection (1.1), subparagraphs (1)(a)(i) and (ii) are amended to replace the references to \$10,527 with references to the new basic personal amount.

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2020 and subsequent taxation years.

ITA  
118(1)B(b)

Paragraph (b) of the description of B in the formula in subsection 118(1) provides a tax credit to individuals who are single and have a wholly dependent relative. Consequential on the introduction of the new basic personal amount calculation in subsection (1.1), subparagraphs (1)(b)(iii) and (iv) are amended to replace the references to \$10,527 with references to the new basic personal amount.

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2020 and subsequent taxation years.

ITA  
118(1)B(c)

Paragraph (c) the description of B in the formula in subsection 118(1) provides for a basic personal amount for individuals who are not entitled to a credit under paragraph (a) or (b). Consequential on the introduction of the new basic personal amount calculation in subsection (1.1), paragraph (c) is amended to replace the reference to \$10,320 with a reference to the new basic personal amount.

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2020 and subsequent taxation years.

### **Basic Personal Amount**

ITA  
118(1.1)

New subsection 118(1.1) provides for the calculation of an individual's basic personal amount. The calculation of the new basic personal amount is comprised of two basic elements. Element A is the existing basic personal amount (\$12,298, the amount for 2020 as indexed for inflation). Element B is an additional amount that is gradually reduced for individuals with income in excess of the bottom of the fourth tax bracket.

More particularly, the additional amount for Element B is determined by the formula  $C - D \times E$ . Element C is the maximum additional amount, which is expressed as the formula  $F - G$  (Element F is the maximum basic personal amount for any particular year and Element G is the minimum basic personal amount). The values for Element F are:

- for the 2020 taxation year, \$13,229;
- for the 2021 taxation year, \$13,808;
- for the 2022 taxation year, \$14,398; and
- for the 2023 and subsequent taxation years, \$15,000.

The amount of \$15,000 is indexed for inflation for the 2024 and subsequent taxation years. For more information, see the commentary on subsection 117.1(1).

The amount of the addition to the basic personal amount is reduced (represented by  $D \times E$  in the formula  $C - D \times E$ ) for individuals with incomes in excess of the bottom of the fourth tax bracket

(\$150,473 in 2020) and eliminated for individuals with incomes equal to or in excess of the bottom of the top tax bracket (\$214,368 in 2020).

### *Example*

*Assume that an individual has income of \$200,000 for the 2020 taxation year.*

*The individual's basic personal amount is determined by the formula  $A + B$ . Variable A is \$12,298 for the 2020 taxation year. Variable B is determined by the formula  $C - D \times E$ .*

*Variable C represents the maximum additional amount. It is determined by the formula  $F - G$ . Since F is \$13,229 for 2020 (i.e., the maximum basic personal amount) and G is \$12,298 (i.e., the minimum basic personal amount), the amount determined for C is \$931.*

*D x E reduces the amount that can be added (by Element B) to the minimum basic personal amount, based on the income of the individual. The amount determined for D is the same as the amount determined for C (i.e., the maximum additional amount), which is \$931. The amount determined for E depends on the income of the individual. If the individual's income for 2020 were less than the bottom of the fourth tax bracket (\$150,473 in 2020), the amount determined for E would have been nil. If that were the case, D x E would also be nil and result in the individual being entitled to the maximum basic personal amount.*

*Since the individual's income exceeds the threshold for the bottom of the fourth tax bracket, paragraph (b) of the description of E will apply and E will be the lesser of 1 and the amount determined by the formula  $(H - I)/J$ . This formula represents the proportion of the individual's income that is between the bottom of the fourth tax bracket and the bottom of the fifth tax bracket.*

*The  $(H - I)$  portion of the formula represents the amount by which the individual's income for a year (\$200,000) exceeds the bottom of the fourth tax bracket (\$150,473 in 2020). Variable J represents the size of the fourth bracket and is determined by the formula  $K - L$ , where K is the bottom of the fifth tax bracket (\$214,368 in 2020) and L is the bottom of the fourth tax bracket (\$150,473 in 2020). J would therefore be \$63,895 and the amount determined by the formula  $(H - I)/J$  would be  $(\$200,000 - \$150,473) / \$63,895 = 0.775$ . Since this is less than 1, it becomes the amount determined for E.*

*If the amount determined for E were 1 (i.e., because the individual had income equal to or greater than the bottom of the fifth bracket), then the formula  $C - D \times E$  would be  $\$931 - \$931 \times 1 = \text{nil}$ . In other words, where an individual has income equal to or greater than the bottom of the fifth bracket, they would have no amount added to the minimum basic personal amount (which is \$12,298 in 2020).*

*Since the amount for E has been determined, the amount for B can be determined. The formula for B is  $C - D \times E$ , which results in  $\$931 - \$931 \times 0.775 = \$209$ .*

*The individual's basic personal amount for 2020 (A + B) would therefore be \$12,298 + \$209 = \$12,507.*

This amendment applies to the 2020 and subsequent taxation years.

## **Clause 5**

### **Restriction — Financially Dependent**

ITA

146(1.1)

Certain tax provisions apply in relation to the treatment of retirement savings on the death of an individual in situations where a recipient of the savings is a financially dependent child or grandchild of the deceased individual. Subsection 146(1.1) of the Act sets out a rebuttable presumption that a child or grandchild of a deceased registered retirement savings plan annuitant is not financially dependent on the deceased annuitant if the income of the child or grandchild exceeds the amount specified in that subsection. The amount is the basic personal amount for the preceding taxation year plus, if the financial dependence is due to mental or physical infirmity, the disability amount determined by subsection 118.3(1).

Consequential on the introduction of the new basic personal amount calculation in new subsection 118(1.1), the description of A in this subsection is amended to refer to the unreduced maximum amount determinable under subsection 118(1.1) (i.e., the amount determined for F in that subsection).

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2021 and subsequent taxation years.

## **Clause 6**

### **Person Deemed Resident**

ITA

250(1)(f)

Under paragraph 250(1)(f) of the Act, children who are dependent on certain persons deemed to be resident in Canada, and whose incomes do not exceed the amount of income that can be earned on a tax-free basis (*i.e.*, the basic personal amount), are also deemed to be Canadian residents.

Consequential on the introduction of the basic personal amount computation in new subsection 118(1.1), paragraph (f) is amended to refer to the unreduced maximum amount determined under subsection 118(1.1) (*i.e.*, the amount determined for F in that subsection).

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1).

This amendment applies to the 2020 and subsequent taxation years.

## **Income Tax Regulations**

### **Clause 7**

#### **RDSP Disability Assistance Payment – Withholding Amount**

ITR

103.1(2)

The Act requires that tax be withheld from certain payments, such as remuneration. The person making such payments is required to remit the amount withheld to the Receiver General of Canada on behalf of the payee. The withholding on account of income tax from the taxable portions of those payments is to be done in accordance with prescribed rules.

Part I of the *Income Tax Regulations* (the “Regulations”) provides the rules concerning the amounts to be withheld on account of tax by a person paying remuneration. The Regulations set out what amounts are to be included in remuneration, what proportion of such remuneration is subject to withholdings and the percentage that must be withheld from such remuneration on account of tax. The Regulations also impose reporting requirements on the person making the payments.

A Registered Disability Savings Plans (RDSP) is a trust arrangement between a holder and an issuer (a corporation offering the public its services as a trustee). The purpose of such a plan is to provide for the long-term financial security of a beneficiary who has a prolonged and severe physical or mental impairment.

Payments to RDSP beneficiaries are known as disability assistance payments. Lifetime disability assistance payments are disability assistance payments that, once started, are payable at least annually until the plan is terminated or the beneficiary has died. Both types of payments may be comprised of a portion that is taxable in the hands of an RDSP beneficiary (grants, bonds and investment earnings) and a portion that is not (contributions).

The formula in subsection 103.1(2) of the Regulations provides a withholding exemption for an amount equal to the sum of the beneficiary's basic personal amount and the disability tax credit for the year from any payments made before withholding begins.

Consequential on the introduction of the new basic personal amount calculation in new subsection 118(1.1), subparagraph (b)(i) of the description of B in the formula is amended to refer to the unreduced maximum amount determinable under subsection 118(1.1) (*i.e.*, the amount determined for F in that subsection).

For more information on the computation of the new basic personal amount, see the commentary on new subsection 118(1.1) of the Act.

This amendment applies to the 2020 and subsequent taxation years.