LEGISLATIVE PROPOSALS RELATING TO INCOME TAX ACT AND OTHER LEGISLATION

Electronic Filing and Certification of Tax and Information Returns

Income Tax Act

1 Subsection 8(10) of the *Income Tax Act* (the "Act") is replaced by the following:

Certificate of employer

(10) An amount otherwise deductible for a taxation year under paragraph (1)(c), (f), (h) or (h.1) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless the taxpayer's employer confirms in prescribed form that the conditions set out in the applicable provision were met in the year in respect of the taxpayer, and the form is filed with the taxpayer's return of income for the year.

2 (1) Subsections 150.1(2.2) and (2.3) of the Act are replaced by the following:

Definition of *tax preparer*

(2.2) In this section and subsection 162(7.3), ***tax preparer***, for a calendar year, means a person or partnership who, in the year, accepts consideration to prepare more than five returns of income of corporations, more than five returns of income of individuals (other than trusts), or more than five returns of income of estates or trusts, but does not include an employee who prepares returns of income in the course of performing their duties of employment.

Electronic filing — tax preparer

(2.3) A tax preparer must file any return of income prepared by the tax preparer for consideration by way of electronic filing, except that five of the returns of corporations, five of the returns of individuals (other than trusts), and five of the returns of estates or trusts may be filed other than by way of electronic filing.

(2) Subsection 150.1(4) of the Act is replaced by the following:

Declaration

(4) If a return of income of a taxpayer for a taxation year is filed by way of electronic filing by a particular person (in this subsection referred to as the "filer") other than the person who is required to file the return, the person who is required to file the return shall make an information return in prescribed form containing prescribed information, retain a copy of it and provide the filer with the information return, and that return and the copy shall be deemed to be a record referred to in section 230 in respect of the filer and the other person.

(3) Section 150.1 of the Act is amended by adding the following after subsection (4):

Electronic notice of assessment

(4.1) Notwithstanding subsection 244(14.1), if a return of income for a taxation year of an individual is filed by way of electronic filing, either by the individual or by a particular person (in this subsection referred to as the "filer") other than the individual who is required to file the return, the notice of assessment in respect of the return of income is presumed to have been sent to the individual and received by the individual on the day that it is made available, using electronic means, to

(a) the individual, if that individual filed the return of income; and

(b) the filer, if that person filed the return of income for the individual.

(4) Subsection (1) is deemed to have come into force on January 1, 2022.

(5) Subsection (3) comes into force on January 1, 2023.

3 (1) The portion of subsection 153(1) of the Act after paragraph (u) is replaced by the following:

must deduct or withhold from the payment the amount determined in accordance with prescribed rules and must, at the prescribed time, remit that amount to the Receiver General on account of the payee's tax for the year under this Part or Part XI.3, as the case may be, and, where at that prescribed time the person is a prescribed person, the remittance must be made to the account of the Receiver General at or through a designated financial institution.

(2) Subsection 153(1.4) of the Act is replaced by the following:

Exception — remittance to designated financial institution

(1.4) For the purpose of subsection (1), a prescribed person referred to in that subsection is deemed to have remitted an amount to the account of the Receiver General at or through a designated financial institution if the prescribed person has remitted the amount to the Receiver General at least one day before the day upon which the amount is due.

(3) Subsections (1) and (2) apply in respect of payments and remittances made after 2021.

4 (1) The Act is amended by adding the following after section 160.4:

Electronic Payments

Definitions

160.5 (1) The following definitions apply in this section.

designated financial institution has the same meaning as in subsection 153(6); (*institution financière désignée*)

electronic payment means any payment or remittance to the Receiver General that is made through electronic services offered by a designated financial institution or by any electronic means specified by the Minister. (*paiement électronique*)

Requirement — electronic payments

(2) The remittance or payment of an amount to the Receiver General must be made as an electronic payment if the amount of the remittance or payment exceeds $10,000, unless the payor or remitter cannot reasonably remit or pay the amount in that manner.

(2) Subsection (1) applies in respect of payments and remittances made after 2021.

5 (1) Paragraph 162(7.02)(a) of the Act is replaced by the following:

(a) where the number of those information returns is greater than 5 and less than 51, $125;

(a.1) where the number of those information returns is greater than 50 and less than 251, $250;

(2) Section 162 of the Act is amended by adding the following after subsection (7.3):

Penalty — electronic payments

(7.4) Every person who fails to comply with subsection 160.5(2) is liable to a penalty equal to $100 for each such failure.

(3) Subsection 162(8.1) of the Act is replaced by the following:

Rules — partnership liable to a penalty

(8.1) If a partnership is liable to a penalty under any of subsections (5) to (7.1), (7.3), (7.4), (8) and (10), then sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any modifications that the circumstances require, to the penalty as if the partnership were a corporation.

(4) Subsection (1) applies in respect of information returns filed after 2021.

(5) Subsections (2) and (3) apply in respect of payments and remittances made after 2021.

6 Subsection 244(14.1) of the Act is replaced by the following:

Date when electronic notice sent

(14.1) If a notice or other communication in respect of an individual, other than a notice or other communication that refers to the business number of a person or partnership, is made available in electronic format such that it can be read or perceived by an individual or a computer system or other similar device, the notice or other communication is presumed to be sent to the individual and received by the individual on the date that an electronic message is sent, to the electronic address most recently provided by the individual to the Minister for the purposes of this subsection, informing the individual that a notice or other communication requiring the individual's immediate attention is available in the individual's secure electronic account. A notice or other communication is considered to be made available if it is posted by the Minister in the individual's secure electronic account and the individual has authorized that notices or other communications may be made available in this manner and has not before that date revoked that authorization in a manner specified by the Minister.

Date when electronic notice sent — My Business Account

(14.2) A notice or other communication that is made available in electronic format such that it can be read or perceived by an individual or a computer system or other similar device, and that refers to the business number of a person or partnership, is presumed to be sent to the person or partnership and received by the person or partnership on the date that it is posted by the Minister in the secure electronic account in respect of a business number of the person or partnership, unless the person or partnership has requested, 30 days prior to that date, in a manner specified by the Minister, that the notice or other communication be sent by mail.

Tax Rebate Discounting Act

7 Paragraphs 4(2)(a) and (b) of the *Tax Rebate Discounting Act* are replaced by the following:

(a) including with the return of income, other than a return of income deemed by subsection 150.1(3) of the *Income Tax Act* to have been filed for the purposes of section 150 of that Act, a true copy of the statement referred to in subparagraph (1)(b)(i) as provided to the client, and

(b) providing to such person and within such period of time as the Minister may specify a true copy of the statement referred to in subparagraph (1)(b)(i) as provided to the client,

Income Tax Regulations

8 (1) The portion of subsection 205.1(1) of the *Income Tax Regulations* (the "Regulations"), before the list of types of prescribed information returns, is replaced by the following:

Electronic Filing

(1) For the purpose of subsection 162(7.02) of the Act, the following types of information returns are prescribed and must be filed electronically if more than five information returns of that type are required to be filed for a calendar year:

(2) The portion of subsection 205.1(2) of the Regulations before paragraph (a) is replaced by the following:

(2) For purposes of subsection 150.1(2.1) of the Act, a prescribed corporation is any corporation except

(3) Subsections (1) applies in respect of information returns filed after 2021.

(4) Subsection (2) applies in respect of taxation years beginning after 2021.

9 (1) The portion of subsection 209(5) of the Regulations before paragraph (a) is replaced by the following:

(5) A person may provide a Statement of Remuneration Paid (T4) information return, a Tuition and Enrolment Certificate, a Statement of Pension, Retirement, Annuity, and Other Income (T4A) information return, or a Statement of Investment Income (T5) information return, as required under subsection (1), as a single document in an electronic format (instead of the two copies required under subsection (1)) to the taxpayer to whom the return relates, on or before the date on which the return is to be filed with the Minister, unless

(2) Subsection (1) applies in respect of information returns filed after 2021.

Immediate Expensing

Income Tax Act

10 (1) Subsection 13(2) of the Act is replaced by the following:

Recapture – Class 10.1 Passenger Vehicle

(2) Notwithstanding subsection 13(1), where an excess amount is determined under that subsection at the end of a taxation year in respect of a passenger vehicle having a cost to a taxpayer in excess of $20,000 or such other amount as may be prescribed, unless it was, at any time, *designated immediate expensing property* as defined in subsection 1104(3.1) of the *Income Tax Regulations*, that excess amount shall not be included in computing the taxpayer's income for the year but shall be deemed, for the purposes of B in the definition *undepreciated capital cost* in subsection 13(21), to be an amount included in the taxpayer's income for the year by reason of this section.

(2) The portion of paragraph 13(7)(i) of the Act before subparagraph (ii) is replaced by the following:

(i) if the cost to a taxpayer of a *zero-emission passenger vehicle* exceeds the prescribed amount in subsection 7307(1.1) of the *Income Tax Regulations*, or if the cost of a passenger vehicle that was, at any time, *designated immediate expensing property* as defined in subsection 1104(3.1) of the *Income Tax Regulations* exceeds the prescribed amount in subsection 7307(1) of the *Income Tax Regulations*,

(i) the capital cost to the taxpayer of the vehicle is deemed to be equal to the prescribed amount under subsection 7307(1.1) or (1), as the case may be, and

(3) Subsections (1) and (2) are deemed to have come into force for taxation years ending on or after April 19, 2021.

Income Tax Regulations

11 (1) Section 1100 of the Regulations is amended by adding the following before subsection (1):

Immediate expensing

(0.1) For the purposes of paragraph 20(1)(a) of the Act, a deduction is allowed in computing an eligible person or partnership's income for each taxation year equal to the lesser of

(a) the eligible person or partnership's immediate expensing limit for the taxation year;

(b) the undepreciated capital cost to the eligible person or partnership as of the end of the taxation year (before making any deduction under this Part for the taxation year) of property that is designated immediate expensing property for the taxation year; and

(c) if the eligible person or partnership is not a Canadian-controlled private corporation, the amount of income, if any, earned from the source of income that is a business or property (computed without regard to paragraph 20(1)(a) of the Act) in which the relevant designated immediate expensing property is used for the eligible person or partnership's taxation year.

Undepreciated capital cost — immediate expensing

(0.2) Before computing any other deduction permitted under this Part and Schedules II to VI, the amount of any deduction made under subsection (0.1) by an eligible person or partnership in respect of a designated immediate expensing property of a prescribed class shall be deducted from the undepreciated capital cost of the particular class to which the property belongs.

Expenditures excluded from paragraph (0.1)(b)

(0.3) For the purposes of paragraph (0.1)(b), in respect of property of a class in Schedule II that is immediate expensing property of an eligible person or partnership solely because of subparagraph (c)(i) of the definition *immediate expensing property* in subsection 1104(3.1), amounts incurred by any person or partnership in respect of the property are not to be included in determining the undepreciated capital cost to the eligible person or partnership as of the end of the taxation year (before making any deduction under this Part for the taxation year) of property that is designated immediate expensing property for the taxation year if the amounts are incurred before April 19, 2021 (if the eligible person or partnership is a Canadian-controlled private corporation) or before 2022 (if the eligible person or partnership is an individual or Canadian partnership), unless

(a) the property was acquired by an eligible person or partnership from another person or partnership (referred to in this paragraph as the "transferee" and the "transferor", respectively)

(i) if the transferee is a Canadian-controlled private corporation, after April 18, 2021, or

(ii) if the transferee is an individual or a Canadian partnership, after December 31, 2021;

(b) the transferee was either

(i) the eligible person or partnership, or

(ii) a person or partnership that does not deal at arm's length with the eligible person or partnership; and

(c) the transferor

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

(ii) held the property as inventory.

(2) The portion of subsection 1100(1.1) of the Regulations before paragraph (a) is replaced by the following:

(1.1) Notwithstanding subsections (0.1), (1) and (3), the amount deductible by a taxpayer for a taxation year in respect of a property that is a specified leasing property at the end of the year is the lesser of

(3) Subsection 1100(1.12) of the Regulations is replaced by the following:

(1.12) Notwithstanding subsections (0.1), (1) and (1.1), where, in a taxation year, a taxpayer has acquired a property that was not used by the taxpayer for any purpose in that year and the first use of the property by the taxpayer is a lease of the property in respect of which subsection (1.1) applies, the amount allowed to the taxpayer under subsections (0.1) and (1) in respect of the property for the year shall be deemed to be nil.

(4) The portion of subsection 1100(11) of the Regulations before paragraph (a) is replaced by the following:

(11) Notwithstanding subsections (0.1) and (1), in no case shall the aggregate of deductions, each of which is a deduction in respect of property of a prescribed class owned by a taxpayer that includes rental property owned by him, otherwise allowed to the taxpayer by virtue of subsections (0.1) or (1) in computing his income for a taxation year, exceed the amount, if any, by which

(5) The portion of subsection 1100(15) of the Regulations before paragraph (a) is replaced by the following:

(15) Notwithstanding subsections (0.1) and (1), in no case shall the aggregate of deductions, each of which is a deduction in respect of property of a prescribed class that is leasing property owned by a taxpayer, otherwise allowed to the taxpayer under subsections (0.1) or (1) in computing his income for a taxation year, exceed the amount, if any, by which

(6) The portion of subsection 1100(20.1) of the Regulations before paragraph (a) is replaced by the following:

(20.1) The total of all amounts each of which is a deduction in respect of computer tax shelter property allowed to the taxpayer under subsections (0.1) or (1) in computing a taxpayer's income for a taxation year shall not exceed the amount, if any, by which

(7) Subsection 1100(21.1) of the Regulations is replaced by the following:

(21.1) Notwithstanding subsections (0.1) and (1), where a taxpayer has acquired property described in paragraph (s) of Class 10 in Schedule II, or in paragraph (m) of Class 12 of Schedule II, the deduction in respect of the property otherwise allowed to the taxpayer under subsections (0.1) or (1) in computing the taxpayer's income for a taxation year shall not exceed the amount that it would be if the capital cost to the taxpayer of the property were reduced by the portion of any debt obligation of the taxpayer outstanding at the end of the year that is convertible into an interest or, for civil law, a right in the property or an interest in the taxpayer.

(8) The portion of subsection 1100(24) of the Regulations before paragraph (a) is replaced by the following:

(24) Notwithstanding subsections (0.1) and (1), in no case shall the total of deductions, each of which is a deduction in respect of property of Class 34, 43.1, 43.2, 47 or 48 in Schedule II that is specified energy property owned by a taxpayer, otherwise allowed to the taxpayer under subsections (0.1) or (1) in computing the taxpayer's income for a taxation year, exceed the amount, if any, by which

(9) Subsections (1) to (8) are deemed to have come into force on April 19, 2021.

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

(20.1) For the purposes of subsections 1100(0.3) and (2.02) and 1104(3.1) and (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 immediate expensing 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) or subpargraph 1100(0.3)(c)(i).

(2) Subsection (1) is deemed to have come into force on April 19, 2021.

13 (1) Section 1104 of the Regulations is amended by adding the following after subsection (3):

Definitions

(3.1) For the purposes of this Part and Schedules II to VI,

designated immediate expensing property for a taxation year, means property of an eligible person or partnership that

(a) is immediate expensing property of the eligible person or partnership;

(b) became available for use by the eligible person or partnership in the taxation year; and

(c) is designated as designated immediate expensing property for the taxation year in prescribed form by the eligible person or partnership

(i) if the eligible person or partnership is a partnership, on or before the day on or before which any member of the partnership is required to file an information return pursuant to section 229 for the fiscal period to which the designation relates, and

(ii) in any other case, on or before the eligible person or partnership's filing-due date for the year to which the designation relates. (*bien relatif à la passation en charges immédiate désigné*)

eligible person or partnership for a taxation year, means

(a) a corporation that was a Canadian-controlled private corporation throughout the year;

(b) an individual (other than a trust) who was resident in Canada throughout the year; or

(c) a Canadian partnership all of the members of which were, throughout the period, persons described in paragraphs (a) or (b) or a combination thereof. (*personne ou société de personnes admissible*)

immediate expensing property for a taxation year, means property of a prescribed class (other than property included in class 1 to 6, 14.1, 17, 47, 49 and 51) of an eligible person or partnership that

(a) is acquired

(i) if the eligible person or partnership is a Canadian-controlled private corporation, after April 18, 2021, or

(ii) if the eligible person or partnership is an individual or a Canadian partnership, after December 31, 2021;

(b) becomes available for use

(i) if the eligible person or partnership is an individual or a Canadian partnership all the members of which are individuals throughout the taxation year, before 2025, and

(ii) in any other case, before 2024; and

(c) meets either of the following conditions:

(i) the property

(A) has not been used for any purpose before it was acquired by the eligible person or partnership, and

(B) 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 eligible person or partnership, or

(ii) the property was not

(A) acquired in circumstances where

(I) the eligible person or partnership was deemed to have been allowed or deducted an amount under paragraph 20(1)(a) of the Act in respect of the property in computing income for previous taxation years, or

(II) the undepreciated capital cost of depreciable property of a prescribed class of the eligible person or partnership was reduced by an amount determined by reference to the amount by which the capital cost of the property to the eligible person or partnership exceeds its cost amount, or

(B) previously owned or acquired by the eligible person or partnership or by a person or partnership with which the eligible person or partnership did not deal at arm's length at any time when the property was owned or acquired by the person or partnership. (*bien relatif à la passation en charges immédiate*)

taxpayer unless the context otherwise requires, includes an eligible person or partnership. (*contribuable*)

Immediate expensing limit

(3.2) For the purposes of this Part and Schedules II to VI, an eligible person or partnership's immediate expensing limit for a taxation year is $1,500,000 unless the eligible person or partnership is associated (within the meaning of the Act, as modified by subsection (3.6)) in the taxation year with one or more other eligible person or partnerships, in which case, except as otherwise provided in this section, its immediate expensing limit is nil.

Associated eligible persons or partnerships

(3.3) Notwithstanding subsection (3.2), if all the eligible person or partnerships that are associated with each other (within the meaning of the Act, as modified by subsection (3.6)) in a taxation year file with the Minister in prescribed form an agreement that assigns for the purpose of this Part and Schedules II to VI a percentage to one or more of them for the year, the immediate expensing limit for the year of each of the eligible person or partnerships is

(a) if the total of the percentages assigned in the agreement does not exceed 100%, $1,500,000 multiplied by the percentage assigned to that eligible person or partnership in the agreement; and

(b) in any other case, nil.

Failure to file agreement

(3.4) If any of the eligible persons or partnerships that are associated with each other (within the meaning of the Act, as modified by subsection (3.6)) in a taxation year has failed to file with the Minister an agreement as contemplated by subsection (3.3) within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax under Part I of the Act, the Minister shall, for the purpose of this Part and Schedules II to VI, allocate an amount to one or more of them for the taxation year.

Special rules for immediate expensing limit

(3.5) Notwithstanding subsections (3.2) to (3.4),

(a) where an eligible person or partnership (in this paragraph referred to as the "first person") has more than one taxation year ending in the same calendar year and it is associated (within the meaning of the Act, as modified by subsection (3.6)) in two or more of those taxation years with another eligible person or partnership (in this paragraph referred to as the "other person") that has a taxation year ending in that calendar year, the immediate expensing limit of the first person for each taxation year ending in the calendar year in which it is associated (within the meaning of the Act, as modified by subsection (3.6)) with the other person that ends after the first such taxation year ending in that calendar year is, subject to the application of paragraph (b), an amount equal to the lesser of

(i) its immediate expensing limit determined under subsection (3.3) or (3.4) for the first such taxation year ending in the calendar year, and

(ii) its immediate expensing limit determined under subsection (3.3) or (3.4) for the particular taxation year ending in the calendar year; and

(b) where an eligible person or partnership has a taxation year that is less than 51 weeks, its immediate expensing limit for the year is that proportion of its immediate expensing limit for the year determined without reference to this paragraph that the number of days in the year is of 365.

Associated - interpretation

(3.6) For the purposes of this Part and Schedules II to VI, in determining whether an eligible person or partnership is associated (within the meaning of the Act, as modified by this subsection) with another eligible person or partnership in a taxation year

(a) if the eligible person or partnership is a partnership

(i) the partnership is deemed to be a corporation (in this subsection referred to as a "deemed corporation") for the year,

(ii) the deemed corporation is deemed to have a capital stock of a single class of shares, with a total of 100 issued and outstanding shares,

(iii) each member (in this subsection referred to as a "deemed shareholder") of the deemed corporation is deemed to be a shareholder of the deemed corporation,

(iv) each deemed shareholder of the deemed corporation is deemed to hold a number of shares in the capital stock of the deemed corporation determined by the formula

A × 100

where

A is equal to

(A) the deemed shareholder's specified proportion for the last fiscal period of the deemed corporation, or

(B) if the deemed shareholder does not have a specified proportion described in clause (A), the proportion that

(I) the fair market value of the deemed shareholder's interest in the deemed corporation at that time

is of

(II) the fair market value of all interests in the deemed corporation at that time, and

(v) the deemed corporation's fiscal period is deemed to be its taxation year; and

(b) if the eligible person or partnership is an individual (other than a trust) who carries on a business or has acquired immediate expensing property

(i) the individual, in respect of that business or property, is deemed to be a corporation that is controlled by the individual, and

(ii) the corporation's taxation year is deemed to be the same as the individual's taxation year.

(2) Subsection (1) is deemed to have come into force on April 19, 2021.

Reporting Requirements for Trusts

Income Tax Act

14 (1) Subsection 104(1) of the Act is replaced by the following:

Reference to trust or estate

104 (1) In this Act, a reference to a trust or estate (in this Subdivision referred to as a "trust") shall, unless the context otherwise requires, be read to include a reference to the trustee, executor, administrator, liquidator of a succession, heir or other legal representative having ownership or control of the trust property, but, except for the purposes of this subsection, subsection (1.1), section 150, subparagraph (b)(v) of the definition *disposition* in subsection 248(1) and paragraph (k) of that definition, a trust is deemed not to include an arrangement under which the trust can reasonably be

considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property unless the trust is described in any of paragraphs (a) to (e.1) of the definition *trust* in subsection 108(1).

(2) Subsection (1) applies to taxation years that end after December 30, 2022.

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

Exception

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

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

Exception — trusts

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

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

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

(i) money,

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

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

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

(v) a unit of a mutual fund trust,

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

(vii) an interest as a beneficiary under a trust, all the units of which are listed on a designated stock exchange;

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

(d) is a registered charity;

(e) is a club, society or association described in paragraph 149(1)(l);

(f) is a mutual fund trust;

(g) is, for greater certainty, a related segregated fund trust, within the meaning assigned by paragraph 138.1(1)(a);

(h) is a trust, all the units of which are listed on a designated stock exchange;

(i) is prescribed to be a master trust;

(j) is, for greater certainty, a graduated rate estate;

(k) is a *qualified disability trust*, as defined in subsection 122(3);

(l) is an employee life and health trust;

(m) is a trust described under paragraph 81(1)(g.3);

(n) is a trust under or governed by

(i) a deferred profit sharing plan,

(ii) a pooled registered pension plan,

(iii) a registered disability savings plan,

(iv) a registered education savings plan,

(v) a registered pension plan,

(vi) a registered retirement income fund,

(vii) a registered retirement savings plan, or

(viii) a tax-free savings account; or

(o) is a cemetery care trust or a trust governed by an eligible funeral arrangement.

Bare trusts and arrangements — inclusion

(1.3) For the purposes of this section, a trust includes an arrangement under which the trust can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property.

Solicitor-client privilege

(1.4) For greater certainty, subsections (1.1) to (1.3) do not require the disclosure of information that is subject to solicitor-client privilege.

(3) Subsections (1) and (2) apply to taxation years that end after December 30, 2022.

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

False statement or omission — trust return

(5) A person or partnership is liable to a penalty if the person or partnership

(a) knowingly or under circumstances amounting to gross negligence

(i) makes — or participates in, assents to or acquiesces in, the making of — a false statement or omission in a return of income of a trust that is not subject to one of the exceptions listed in paragraphs 150(1.2)(a) to (o) for a taxation year, or

(ii) fails to file a return described in subparagraph (i); or

(b) fails to comply with a demand under subsection 150(2) or 231.2(1) to file a return described in subparagraph (a)(i).

False statement or omission — trust return

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

(a) $2,500; and

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

(2) Subsection (1) applies to taxation years that end after December 30, 2022.

Income Tax Regulations

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

Additional reporting — trusts

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

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

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

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

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

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

(2) Subsection (1) applies to taxation years that end after December 30, 2022.

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

Master trust

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

(2) Subsection (1) applies to taxation years that end after December 30, 2022.

Mutual Fund Trusts — Allocations to Redeemers by Exchange Traded Funds

19 (1) The portion of paragraph 107(2.1)(c) of the Act before subparagraph (i) is replaced by the following

(c) unless the trust is a mutual fund trust, the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount, if any, by which

(2) Subsection (1) applies to taxation years that begin after December 15, 2021.

20 (1) Subsection 132(4) of this Act is amended by adding the following in alphabetical order:

net asset value has the same meaning as in *National Instrument 81-102 Investment Funds*, as amended from time to time, of the Canadian Securities Administrators; (*valeur liquidative*)

(2) The portion of subsection 132(5.3) of the Act before paragraph (a) is replaced by the following:

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 and subsection (5.31) 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

(3) Section 132 of the Act is amended by adding the following after subsection (5.3):

Allocations by ETFs

(5.31) If in a taxation year referred to in subsection (5.3)

(a) all of the units offered in the taxation year by a mutual fund trust are listed on a designated stock exchange in Canada and are in continuous distribution (in this subsection referred to as "ETF units"), then paragraph 132(5.3)(b) does not apply and, in computing its income for the taxation year, no deduction may be made by the trust in respect of the amount determined by the formula

A – (B / (C + B) × D)

where

A is the portion of the total of all allocated amounts for the taxation year in respect of redemptions of ETF units by beneficiaries of the trust during that year that would be, without reference to subsection 104(6), amounts paid out of the taxable capital gains of the trust,

B is the lesser of

(i) the total amount paid for redemptions of the ETF units in the taxation year, and

(ii) the greater of

(A) the amount determined for C, and

(B) the net asset value of the trust at the end of the previous taxation year,

C is the net asset value of the trust at the end of the taxation year, and

D is the amount that would be, without reference to subsection 104(6), the trust's net taxable capital gains (as determined under subsection 104(21.3)) for the taxation year; or

(b) units offered by a mutual fund trust include units that are not ETF units (in this paragraph referred to as "non-ETF units") and units that are ETF units, then

(i) in respect of redemptions of ETF units, paragraph (5.3)(b) shall not apply and paragraph (a) shall apply, except that

(A) the description of C shall be read as "the portion of the net asset value of the trust at the end of the taxation year that is referable to the ETF units,",

(B) clause (ii) (B) of the description of B shall be read as "the portion of the net asset value of the trust at the end of the previous taxation year that is referable to the ETF units,", and

(C) the amount determined for D shall be the amount determined by the formula

E / F × G

where

E is the portion of the net asset value of the trust at the end of the taxation year that is referable to the ETF units,

F is the net asset value of the trust at the end of the taxation year, and

G is the amount that would be, without reference to subsection 104(6), the trust's net taxable capital gains (as determined under subsection 104(21.3)) for the taxation year; and

(ii) in respect of redemptions of non-ETF units, in addition to the limitation applicable under paragraph (5.3)(b), the total amount of the deductions that may be claimed by the trust for the taxation year for the portion of the allocated amounts described in A in paragraph (5.3)(b) in respect of non-ETF units shall not exceed the amount determined by the formula

H / I × J

where

H is the portion of the net asset value of the trust at the end of the taxation year that is referable to the non-ETF units,

I is the net asset value of the trust at the end of the taxation year, and

J is the amount that would be, without reference to subsection 104(6), the trust's net taxable capital gains (as determined under subsection 104(21.3)) for the taxation year.

(4) Subsections (1) to (3) apply to taxation years that begin after December 15, 2021.

21 (1) Subsection 132.2(3) of the Act is amended by striking out "and" at the end of subparagraph (m)(iii), by adding "and" at the end of paragraph (n) and by adding the following after paragraph (n):

(o) for the purpose of applying subsection 132(5.31) to a fund for a taxation year that includes the transfer time, the following amounts are to be determined as if the taxation year ended immediately before the transfer time:

(i) if paragraph 132(5.31)(a) applies, the amounts determined under the descriptions of B, C and D in that paragraph, and

(ii) if paragraph 132(5.31)(b) applies,

(A) the amounts determined for B and C in paragraph 132(5.31)(a), for the purpose of subparagraph 132(5.31)(b)(i),

(B) the amounts determined for D, E, F and G in clause 132(5.31)(b)(i)(C), and

(C) the amounts determined for H, I and J in subparagraph 132(5.31)(b)(ii).

(2) Subsection (1) applies to taxation years that begin after December 15, 2021.

Disability Tax Credit

22 (1) Subparagraph 118.3(1)(a.1)(ii) of the Act is replaced by the following:

(ii) is required to be administered at least two times each week for a total duration averaging not less than 14 hours a week, and

(2) The portion of subsection 118.3(1.1) of the Act before paragraph (a) is replaced by the following:

(1.1) For the purpose of paragraph 118.3(1)(a.1), in determining whether therapy is required to be administered at least two times each week for a total duration averaging not less than an average of 14 hours a week, the time spent on administering therapy

(3) Paragraphs 118.3(1.1)(b) to (d) of the Act are replaced by the following:

(b) in the case of therapy that requires

(i) a regular dosage of medication that is required to be adjusted on a daily basis, includes time spent on activities that are directly related to the determination of the dosage of the medication, and

(ii) the daily consumption of a medical food or medical formula to limit intake of a particular compound to levels required for the proper development or functioning of the body, includes the time spent on activities that are directly related to the determination of the amount of the compound that can be safely consumed;

(c) in the case of

(i) a child who is unable to perform the activities related to the administration of the therapy as a result of the child's age, includes the time spent by the child's primary caregivers performing or supervising those activities for the child, and

(ii) an individual who is unable to perform the activities related to the administration of the therapy because of the effects of an impairment or impairments in physical or mental functions, includes the time required to be spent by another person to assist the individual in performing those activities; and

(d) does not include time spent on

(i) activities (other than activities described in paragraph (b)) related to dietary or exercise restrictions or regimes,

(ii) travel time,

(iii) medical appointments (other than medical appointments to receive therapy or to determine the daily dosage of medication, medical food or medical formula),

(iv) shopping for medication, or

(v) recuperation after therapy (other than medically required recuperation).

(4) Subsections (1) to (3) apply to the 2021 and subsequent taxation years in respect of certificates described in paragraphs 118.3(1)(a.2) or (a.3) of the *Income Tax Act* that are filed with the Minister of National Revenue after this Act receives Royal Assent.

23 (1) Subparagraphs 118.4(1)(c.1)(i) to (iii) of the Act are replaced by the following:

(i) attention,

(ii) concentration,

(iii) memory,

(iv) judgement,

(v) perception of reality,

(vi) problem solving,

(vii) goal setting,

(viii) regulation of behaviour and emotions,

(ix) verbal and non-verbal comprehension, and

(x) adaptive functioning;

(2) Subsection (1) applies to the 2021 and subsequent taxation years in respect of certificates described in paragraphs 118.3(1)(a.2) or (a.3) of the *Income Tax Act* that are filed with the Minister of National Revenue after this Act receives Royal Assent.

April 2020 One-time Additional GST/HST Credit Payment

24 (1) Subsection 122.5(3.001) of the Act is replaced by the following:

COVID-19 — additional deemed payment

(3.001) An eligible individual in relation to a month specified for a taxation year who files a return of income for the taxation year is deemed to have paid during the specified month on account of their tax payable under this Part for the taxation year an amount determined by the formula

A – B – C

where

A is the total of

(a) $580,

(b) $580 for the qualified relation, if any, of the individual in relation to the specified month,

(c) if the individual has no qualified relation in relation to the specified month and is entitled to deduct an amount for the taxation year under subsection 118(1) because of paragraph (b) of the description of B in that subsection in respect of a qualified dependant of the individual in relation to the specified month, $580,

(d) $306 times the number of qualified dependants of the individual in relation to the specified month, other than a qualified dependant in respect of whom an amount is included under paragraph (c) in computing the total for the specified month,

(e) if the individual has no qualified relation and has one or more qualified dependants, in relation to the specified month, $306, and

(f) if the individual has no qualified relation and no qualified dependant, in relation to the specified month, the lesser of $306 and 2% of the amount, if any, by which the individual's income for the taxation year exceeds $9,412;

B is 5% of the amount, if any, by which the individual's adjusted income for the taxation year in relation to the specified month exceeds $37,789; and

C is the total amount that the eligible individual is deemed to have paid under subsection (3) on account of their tax payable for the specified months of July 2019, October 2019, January 2020 and April 2020.

(2) Subsection (1) is deemed to have come into effect on March 25, 2020.

Rate Reduction for Zero-Emission Technology Manufacturers

Income Tax Act

25 (1) The Act is amended by adding the following after section 125.1:

Zero-emission technology manufacturing

125.2 (1) There may be deducted from the tax otherwise payable under this Part by a corporation for a taxation year the amount determined by the formula

((A × B) + (C × D)) × E

where

A is

(a) 0.075, if the taxation year begins after 2021 and before 2029;

(b) 0.05625, if the taxation year begins after 2028 and before 2030;

(c) 0.0375, if the taxation year begins after 2029 and before 2031;

(d) 0.01875, if the taxation year begins after 2030 and before 2032; and

(e) nil, in any other case;

B is the lesser of

(a) the amount, if any, by which the corporation's zero-emission technology manufacturing profits for the year exceed, where the corporation was a Canadian-controlled private corporation throughout the year, the amount of the corporation's income for the year that is subject to the small business deduction rate as described in subsection 125(1.1); and

(b) the amount, if any, by which the corporation's taxable income for the year exceeds the total of

(i) where the corporation was a Canadian-controlled private corporation throughout the year,

(A) the amount of the corporation's income for the year that is subject to the small business deduction rate as described in subsection 125(1.1), and

(B) its aggregate investment income for the year (within the meaning assigned by subsection 129(4)), and

(ii) the amount determined by multiplying the total of the amounts that would be deductible under subsection 126(2) from the tax for the year otherwise payable under this Part by it, if those amounts were determined without reference to section 123.4, by the relevant factor for the year;

C is

(a) 0.045, if the taxation year begins after 2021 and before 2029;

(b) 0.03375, if the taxation year begins after 2028 and before 2030;

(c) 0.0225, if the taxation year begins after 2029 and before 2031;

(d) 0.01125, if the taxation year begins after 2030 and before 2032; and

(e) nil, in any other case;

D is the lesser of

(a) the amount of the corporation's income for the year that is subject to the small business deduction rate as described in subsection 125(1.1); and

(b) the amount determined by the formula

F – G

where

F is the lesser of

(a) the corporation's zero-emission technology manufacturing profits for the year, and

(b) the amount determined under paragraph (b) of element B; and

G is the amount determined for B; and

E is

(a) 0, if less than 10% of the corporation's gross revenue for the year from all active businesses carried on in Canada is from qualified zero-emission technology manufacturing activities; and

(b) 1, in any other case.

Definitions

(2) In this section,

(a) ***adjusted business income***, ***cost of capital***, ***cost of labour***, ***qualified zero-emission technology manufacturing activities***, ***ZETM cost of capital*** and ***ZETM cost of labour*** have the same meaning as in Part LII of the *Income Tax Regulations*; and

(b) ***zero-emission technology manufacturing profits*** of a corporation for a taxation year means the amount determined by the formula

A × B × C

where

A is the corporation's adjusted business income for the taxation year;

B is the amount determined by the formula

D/E

where

D is the total of the corporation's ZETM cost of capital and ZETM cost of labour for the year; and

E is the total of the corporation's cost of capital and cost of labour for the year; and

C is

(a) if element B is at least 0.9, the amount determined by the formula

F/G

where

F is the amount determined for E; and

G is the amount determined for D; and

(b) 1, in any other case. (*bénéfices de fabrication de technologies à zéro émission*)

Determination of gross revenue

(3) For the purposes element E in subsection (1), where a corporation is a member of a partnership at any time in a taxation year,

(a) there shall be included in the gross revenue of the corporation for the year from all active businesses carried on in Canada, that proportion of the gross revenue from each such business carried on in Canada by means of the partnership, for the fiscal period of the partnership coinciding with or ending in that year, that the corporation's share of the income of the partnership from that business for that fiscal period is of the income of the partnership from that business for that fiscal period; and

(b) there shall be included in the gross revenue of the corporation for the year from qualified zero-emission technology manufacturing activities, that proportion of the gross revenue from qualified zero-emission technology manufacturing activities undertaken in the course of a business carried on by means of the partnership, for the fiscal period of the partnership coinciding with or ending in that year, that the corporation's share of the income of the partnership from that business for that fiscal period is of the income of the partnership from that business for that fiscal period.

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

Income Tax Regulations

26 (1) Section 5202 of the Regulations is renumbered as 5202(1) and amended by adding the following in alphabetical order:

qualified zero-emission technology manufacturing activities means

(a) subject to subsection (2), qualified activities that are performed in connection with the manufacturing or processing of

(i) solar energy conversion equipment, including solar thermal collectors, photovoltaic solar arrays and custom supporting structures or frames, but excluding passive solar heating equipment,

(ii) wind energy conversion equipment, including wind turbine towers, nacelles and rotor blades,

(iii) water energy conversion equipment, including hydroelectric, water current, tidal and wave energy conversion equipment,

(iv) geothermal energy equipment,

(v) equipment for a ground source heat pump system,

(vi) electrical energy storage equipment used for storage of renewable energy or for providing grid-scale storage or other ancillary services, including battery, compressed air and flywheel storage systems,

(vii) equipment used to charge, or to dispense hydrogen to, property included in subparagraph (x),

(viii) equipment used for the production of hydrogen by electrolysis of water,

(ix) equipment that is a component of property included in subparagraphs (a)(i) to (viii), if such equipment is purpose-built or designed exclusively to form an integral part of that property,

(x) property that

(A) would be a zero-emission vehicle (as defined in subsection 248(1) of the Act if that definition were read without reference to its paragraphs (b) and (c)), or

(B) is described in subparagraph (a)(i) of Class 56 of Schedule II, and

(xi) integral components of the powertrain of property included in subparagraph (x), including batteries or fuel cells,

(b) qualified activities that are performed in connection with production in Canada of

(i) hydrogen by electrolysis of water,

(ii) *gaseous biofuel* (as defined in subsection 1104(13)),

(iii) *liquid biofuel* (as defined in subsection 1104(13)), and

(iv) *solid biofuel* (as defined in subsection 1104(13)), and

(c) the conversion of a vehicle into a property described in subparagraph (a)(x); (*activités admissibles de fabrication de technologies à zéro émission*)

ZETM cost of capital of a corporation for a taxation year is the portion of the cost of capital of the corporation for the year that reflects the extent to which each property included in the calculation thereof was used directly in qualified zero-emission technology manufacturing activities of the corporation during the year; (*coût en capital de FTZE*)

ZETM cost of labour of a corporation for a taxation year is the portion of the cost of labour of the corporation for that year that reflects the extent to which

(a) the salaries and wages included in the calculation thereof were paid or payable to persons for the portion of their time that they were directly engaged in qualified zero-emission technology manufacturing activities of the corporation during the year, and

(b) the other amounts included in the calculation thereof were paid or payable to persons for the performance of functions that would be directly related to qualified zero-emission technology manufacturing activities of the corporation during the year if those persons were employees of the corporation. (*coût en main-d'œuvre de FTZE*)

(2) Section 5202 of the Regulations is amended by adding the following after subsection (1):

Interpretation

(2) Qualified zero-emission technology manufacturing activities do not include the manufacturing or processing of general purpose components or equipment which components or equipment are suitable for integration into property other than property described in paragraph (a) of that definition in subsection (1).

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2022.

27 (1) The portion of section 5204 of the Regulations before the definition *cost of capital* is replaced by the following:

Partnerships

5204 Where a corporation is a member of a partnership at any time in a taxation year of the corporation, the following definitions apply:

(2) Section 5204 of the Regulations is amended by adding the following in alphabetical order:

ZETM cost of capital of the corporation for the year is the portion of the cost of capital of the corporation for that year that reflects the extent to which each property included in the calculation thereof was used directly in qualified zero-emission technology manufacturing activities

(a) of the corporation during the year, or

(b) of the partnership during its fiscal period coinciding with or ending in the year, as the case may be; (*coût en capital de FTZE*)

ZETM cost of labour of the corporation for the year is the portion of the cost of labour of the corporation for that year that reflects the extent to which

(a) the salaries and wages included in the calculation thereof were paid or payable to persons for the portion of their time that they were directly engaged in qualified zero-emission technology manufacturing activities

(i) of the corporation during the year, or

(ii) of the partnership during its fiscal period coinciding with or ending in the year, and

(b) the other amounts included in the calculation thereof were paid or payable to persons for the performance of functions that would be directly related to qualified zero-emission technology manufacturing activities of the corporation during the year, or of the partnership during its fiscal period coinciding with or ending in the year, if those persons were employees of the corporation or the partnership, as the case may be. (*coût en main-d'œuvre de FTZE*)

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2022.

Film or Video Production Tax Credits

Income Tax Act

28 (1) Section 125.4 of the Act is amended by adding the following after subsection (1):

COVID-19 — production commencement time

(1.1) The reference to "two years" in subparagraph (b)(iii) of the definition *production commencement time* in subsection (1) is to be read as a reference to "three years" in respect of film or video productions for which the labour expenditure of the corporation in respect of the production for the taxation year ending in 2020 or 2021 was greater than nil.

Income Tax Regulations

29 (1) Section 1106 of the Regulations is amended by adding the following after subsection (1):

COVID-19 — application for a certificate of completion

(1.1) In respect of applications filed with the Minister of Canadian Heritage in respect of film or video productions for which the labour expenditure of the corporation in respect of the production for the taxation years ending in 2020 or 2021 was greater than nil, the definition *application for a certificate of completion* in subsection (1) is to be read as follows:

application for a certificate of completion, in respect of a film or video production, means an application by a prescribed taxable Canadian corporation in respect of the production, filed with the Minister of Canadian Heritage before the day (in this Division referred to as "the production's application deadline") that is the later of

(a) the day that is 24 months after the end of the corporation's taxation year in which the production's principal photography began,

(b) the day that is 18 months after the day referred to in paragraph (a), if the corporation has filed, with the Canada Revenue Agency, and provided to the Minister of Canadian Heritage a copy of, a waiver described in subparagraph 152(4)(a)(ii) of the Act, within the normal reassessment period for the corporation in respect of the first and second taxation years ending after the production's principal photography began, or

(c) the day that is 12 months after the day referred to in paragraph (b), if the corporation has filed, with the Canada Revenue Agency, and provided to the Minister of Canadian Heritage a copy of, a waiver described in subparagraph 152(4)(a)(ii) of the Act, within the normal reassessment period for the corporation in respect of the first, second and third taxation years ending after the production's principal photography began. (*demande de certificat d'achèvement*)

COVID-19 — excluded production

(1.2) The reference to "2-year period" in subparagraph (a) (iv) of the definition *excluded production* in subsection (1) is to be read as a reference to "3-year period" in respect of film or video productions for which the labour expenditure of the corporation in respect of the production for the taxation years ending in 2020 or 2021 was greater than nil.

30 (1) Section 9300 of the Regulations is amended by adding the following after subsection (1):

COVID-19 — accredited production

(1.1) The references to "24 months" in paragraphs 9300(1)(a) and (b) are to be read as references to "36 months" in respect of film or video productions for which the Canadian labour expenditure of the corporation in respect of the production for the taxation years ending in 2020 or 2021 was greater than nil.

Postdoctoral Fellowship Income

31 (1) The definition *earned income* in subsection 146(1) of the Act is amended by adding the following after paragraph (b):

(b.01) an amount included under paragraph 56(1)(n) in computing the taxpayer's income for a period in the year throughout which the taxpayer was resident in Canada in connection with a program that consists primarily of research and does not lead to a diploma from a college or a Collège d'enseignement général et professionnel, or a bachelor, masters, doctoral or equivalent degree,

(2) Subject to subsection (3), subsection (1) applies in respect of income received in the 2021 and subsequent taxation years.

(3) Before 2026, the taxpayer may file an election with the Minister to include income that is described by paragraph (b.01) of the definition *earned income* in subsection 146(1) of the Act, and received by the taxpayer after 2010 and before 2021, for the purposes of computing the taxpayer's *RRSP deduction limit* (as defined in that subsection) on or after the date the election is filed.

Fixing Contribution Errors in Defined Contribution Pension Plans

Income Tax Act

32 (1) The description of Q in the definition *net past service pension adjustment* in subsection 146(1) of the Act is replaced by the following:

Q is the total of all amounts each of which is the amount of a contribution made under subsection 147.1(20) in respect of the taxpayer for the immediately preceding year, and

(2) Subsection (1) is deemed to have come into force on January 1, 2021.

33 (1) Subsection 147.1(1) of the Act is amended by adding the following in alphabetical order:

designated money purchase provision, in a calendar year, means a money purchase provision of a registered pension plan if the plan has at least 10 members throughout the year, or the total contributions made for the year under the provision on behalf of an individual described in paragraph 8515(4)(a) or (b) of the Regulations do not exceed 50% of the total contributions made for the year under the provision. (*disposition à cotisations déterminées désignée*)

permitted corrective contribution to a money purchase provision of a registered pension plan means a contribution in a calendar year in respect of an individual that would otherwise have been made in one or more of the five immediately preceding years (each such year referred to in this definition as a "retroactive year") in accordance with the terms of the plan as registered but for an error that caused a failure to enroll the individual as a member of the plan or to make a required contribution, to the extent that the amount of the contribution does not exceed the lesser of

(a) the total of all amounts each of which is an amount, for a retroactive year, determined by the formula

A + B – C

where

A is the total of all amounts each of which is an amount by which a contribution required to be made at a particular time in the retroactive year under the provision in respect of the individual exceeds the amount contributed at the particular time in respect of the individual,

B is the amount of interest, if any, calculated in respect of each amount determined for A at a rate that

(i) is required by the *Pension Benefits Standards Act, 1985* or a similar law of a province, or

(ii) if subparagraph (i) does not apply, does not exceed a reasonable rate, and

C is the total amount previously contributed in respect of the individual under subsection (20) for the retroactive year, and

(b) the amount determined by the formula

E – F

where

E is 125% of the money purchase limit for the calendar year, and

F is the total amount previously contributed in respect of the individual under subsection (20). (*cotisation corrective permise*)

(2) Section 147.1 of the Act is amended by adding the following after subsection (19):

Permitted corrective contribution

(20) An individual or an employer may make a contribution in a calendar year under a money purchase provision of a registered pension plan in respect of the individual, if it is a permitted corrective contribution and the provision was a designated money purchase provision in each of the five immediately preceding years.

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2021.

34 (1) Paragraph 147.2(1)(a) of the Act is replaced by the following:

(a) in the case of a contribution in respect of a money purchase provision of a plan, the contribution was made in respect of periods before the end of the taxation year

(i) in accordance with the plan as registered, or

(ii) under subsection 147.1(20);

(2) Paragraph 147.2(4)(a) of the Act is replaced by the following:

Service after 1989

(a) the total of all amounts each of which is a contribution (other than a prescribed contribution) made by the individual in the year

(i) to a registered pension plan that is in respect of a period after 1989 or that is a prescribed eligible contribution, to the extent that the contribution was made in accordance with the plan as registered, or

(ii) under subsection 147.1(20),

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2021.

Income Tax Regulations

35 (1) The portion of paragraph 8301(4)(a) of the Regulations before subparagraph (i) is replaced by the following:

(a) a contribution (other than an excluded contribution, a contribution described in paragraph 8308(6)(e) or (g), or a contribution made under subsection 147.1(20) of the Act) made under the provision in the year by

(2) Subsection (1) is deemed to have come into force on January 1, 2021.

36 (1) Subsection 8304.1(1) of the Regulations is replaced by the following:

8304.1 (1) For the purpose of subsection 248(1) of the Act, an individual's *total pension adjustment reversal* for a calendar year means the total of all amounts each of which is

(a) the pension adjustment reversal (in this Part and Part LXXXIV referred to as "PAR") determined in connection with the individual's termination in the year from a deferred profit sharing plan or from a benefit provision of a registered pension plan; or

(b) the pension adjustment correction determined in respect of the individual for the year under subsection (16).

(2) Section 8304.1 of the Regulations is amended by adding the following after subsection (15):

Pension adjustment correction

(16) If a distribution described in subparagraph 8502(d)(iii) is made in a calendar year in respect of an individual from a money purchase provision, the individual's pension adjustment correction for the year is the total of all amounts each of which is an amount, in respect of one or more of the five years immediately preceding the calendar year (each such year referred to in this subsection as a "retroactive year"), determined by the formula

A – B – C

where

A is the total of all amounts each of which was included in determining the individual's pension credit with respect to an employer for the retroactive year under the provision,

B is the total amount that ought to have been contributed to the provision under the terms of the plan as registered with respect to the individual for the retroactive year, and

C is the amount, if any, by which the total of all amounts each of which is the individual's pension adjustment for the retroactive year in respect of an employer exceeds the lesser of the money purchase limit for the retroactive year and 18% of the individual's earned income (as defined in subsection 146(1) of the Act) for the retroactive year.

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2021.

37 (1) Section 8402 of the Regulations is amended by adding the following after subsection (3):

(4) The administrator of a registered pension plan shall file with the Minister an information return in prescribed form within 120 days after a contribution is made to the plan in respect of an individual under subsection 147.1(20) of the Act.

(2) Subsection (1) is deemed to have come into force on January 1, 2021.

38 (1) Section 8402.01 of the Regulations is amended by adding the following after subsection (4):

Pension adjustment correction — employer reporting

(4.1) If a pension adjustment correction under subsection 8304.1(16) is determined for an individual in connection with a distribution from a registered pension plan, the administrator of the plan shall file with the Minister an information return in prescribed form reporting the pension adjustment correction

(a) if the distribution occurs in the first, second or third quarter of a calendar year, on or before the day that is 60 days after the last day of the quarter in which the distribution occurs; and

(b) if the distribution occurs in the fourth quarter of a calendar year, before February of the following calendar year.

(2) Subsection (1) is deemed to have come into force on January 1, 2021.

39 (1) Subparagraph 8502(d)(v) of the Regulations is replaced by the following:

(v) a payment of interest (computed at a rate not exceeding a reasonable rate) in respect of contributions that are returned as described in subparagraph (iii) or (iv),

(2) Subsection (1) is deemed to have come into force on January 1, 2021.

Mandatory Disclosure Rules

40 (1) Paragraph 152(4)(b.1) of the Act is replaced by the following:

(b.1) an information return described in subsection 237.1(7) that is required to be filed in respect of a deduction or claim made by the taxpayer in relation to a tax shelter is not filed as and when required, and the assessment, reassessment or additional assessment is made before the day that is three years after the day on which the information return is filed;

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

(b.5) an information return that is required to be filed under subsection 237.3(2) in respect of a reportable transaction (as defined in subsection 237.3(1)) entered into by the taxpayer, or by a person for the benefit of the taxpayer, is not filed as and when required, and the assessment, reassessment or additional assessment is made before the day that is three years after the day on which the information return is filed;

(b.6) an information return that is required to be filed under subsection 237.4(4) in respect of a notifiable transaction (as defined in subsection 237.4(1)) entered into by the taxpayer, or by a person for the benefit of the taxpayer, is not filed as and when required, and the assessment, reassessment or additional assessment is made before the day that is three years after the day on which the information return is filed;

(b.7) an information return that is required to be filed under subsection 237.5(2) in respect of a reportable uncertain tax treatment (as defined in subsection 237.5(1)) of the taxpayer is not filed as and when required, and the assessment, reassessment or additional assessment is made before the day that is three years after the day on which the information return is filed;

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

Extended period of assessment

(4.01) Notwithstanding subsections (4) and (5), an assessment, reassessment or additional assessment to which paragraph (4)(a), (b), (b.1), (b.3) to (b.7) or (c) applies in respect of a taxpayer for a taxation year may be made after the taxpayer's normal reassessment period in respect of the year to the extent that, but only to the extent that, it can reasonably be regarded as relating to,

(4) The portion of paragraph 152(4.01)(b) of the Act before subparagraph (i) is replaced by the following:

(b) if paragraph (4)(b), (b.1), (b.5) to (b.7) or (c) applies to the assessment, reassessment or additional assessment,

(5) Paragraph 152(4.01)(b) of the Act is amended by striking out "or" at the end of subparagraph (vi) and by replacing subparagraph (vii) with the following:

(vii) the deduction or claim referred to in paragraph (4)(b.1),

(viii) the reportable transaction referred to in paragraph (4)(b.5),

(ix) the notifiable transaction referred to in paragraph (4)(b.6), or

(x) any transaction, or series of transactions, to which the reportable uncertain tax treatment referred to in paragraph (4)(b.7) relates;

(6) Subsections (1) to (5) apply to taxation years that begin after 2021.

41 Paragraph 161(11)(b.1) of the Act is replaced by the following:

(b.1) in the case of a penalty under subsection 237.1(7.4), 237.3(8), 237.4(8) or 237.5(5), from the day on which the taxpayer became liable to the penalty to the day of payment; and

42 Subsection 163(2.9) of the Act is replaced by the following:

Partnership liable to penalty

(2.9) If a partnership is liable to a penalty under paragraph (2)(i), subsection (2.4) or (2.901) or section 163.2, 237.1, 237.3 or 237.4, sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any changes that the circumstances require, in respect of the penalty as if the partnership were a corporation.

43 Paragraph 227(10)(b) of the Act is replaced by the following:

(b) subsection 237.1(7.4) or (7.5), 237.3(8), 237.4(8) or 237.5(5) by a person or partnership,

44 (1) The definition *avoidance transaction* in subsection 237.3(1) of the Act is replaced by the following:

avoidance transaction means a transaction if it may reasonably be considered that one of the main purposes of the transaction, or of a series of transactions of which the transaction is a part, is to obtain a tax benefit. (*opération d'évitement*)

(2) The portion of the definition *reportable transaction* in subsection 237.3(1) of the Act before paragraph (a) is replaced by the following:

reportable transaction, at any time, means an avoidance transaction that is entered into by or for the benefit of a person, and each transaction that is part of a series of transactions that includes the avoidance transaction, if at the time any of the following paragraphs applies in respect of the avoidance transaction or series:

(3) Paragraph (c) of the definition *reportable transaction* in subsection 237.3(1) of the Act is replaced by the following:

(c) either

(i) the person (in this subparagraph referred to as the "particular person"), another person who entered into the avoidance transaction for the benefit of the particular person or any other person who does not deal at arm's length with the particular person or with a person who entered into the avoidance transaction for the benefit of the particular person, has or had contractual protection in respect of the avoidance transaction or series, otherwise than

(A) as a result of a fee described in paragraph (a), or

(B) as a form of insurance, protection or undertaking described in paragraphs (a) or (b) of the definition *contractual protection* that is offered to a broad class of persons and in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgeably and willingly, or

(ii) an advisor or promoter in respect of the avoidance transaction or series, or any person who does not deal at arm's length with the advisor or promoter, has or had contractual protection in respect of the avoidance transaction or series, otherwise than

(A) as a result of a fee described in paragraph (a), or

(B) as a form of insurance, protection or undertaking described in paragraphs (a) or (b) of the definition *contractual protection* that is offered to a broad class of persons and in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgeably and willingly. *(opération à déclarer)*

(4) Subsection 237.3(1) of the Act is amended by adding the following in alphabetical order:

tax treatment, of a person, means a treatment in respect of a transaction, or series of transactions, that the person uses, or plans to use, in a return of income or an information return (or would use in a return of income or an information return if a return of income or an information return were filed) and includes the person's decision not to include a particular amount in a return of income or an information return. (*traitement fiscal*)

(5) Paragraph 237.3(2)(a) of the Act is replaced by the following:

(a) every person for whom a tax benefit results, or for whom a tax benefit is expected to result based on the person's tax treatment of the reportable transaction, from

(i) the reportable transaction,

(ii) any other reportable transaction that is part of a series of transactions that includes the reportable transaction, or

(iii) a series of transactions that includes the reportable transaction;

(6) Subsections 237.3(4) and (5) of the Act are replaced by the following:

Time for filing return

(5) An information return required under subsection (2) to be filed with the Minister for a reportable transaction must be filed by

(a) a person described in paragraph (2)(a) or (b) on or before the particular day that is 45 days after the earliest of

(i) the day on which the person becomes contractually obligated to enter into the reportable transaction,

(ii) the day on which the person enters into the reportable transaction, and

(iii) if the person is described in paragraph (2)(a) and a person described in paragraph (2)(b) enters into the reportable transaction for the benefit of the person described in paragraph (2)(a), the day on which the reportable transaction is entered into; and

(b) a person described in paragraph (2)(c) or (d) no later than the earliest particular day described in paragraph (a) for a person described in paragraph (2)(a) or (b) in respect of the reportable transaction.

(7) The portion of subsection 237.3(6) of the Act before paragraph (a) is replaced by the following:

Tax benefits disallowed

(6) At any time, section 245 is to be read without reference to its subsection (4) in respect of any reportable transaction in respect of a person described in paragraph (2)(a) in relation to the reportable transaction if, at that time,

(8) Subsection 237.3(8) of the Act is replaced by the following:

Penalty

(8) Every person who fails to file an information return in respect of a reportable transaction as required under subsection (2) on or before the day required under subsection (5) is liable to a penalty equal to

(a) if the person is described in paragraph (2)(a) or (b),

(i) if the person is a corporation and the carrying value of the corporation's assets is greater than or equal to $50 million for its last taxation year that ends prior to the day on which the information return is required to be filed under subsection (5), $2,000 multiplied by the number of weeks during which the failure continues, to a maximum amount equal to the greater of

(A) $100,000, and

(B) 25% of the amount of the tax benefit in respect of the reportable transaction, and

(ii) in any other case, $500 multiplied by the number of weeks during which the failure continues, to a maximum amount equal to the greater of

(A) $25,000, and

(B) 25% of the amount of the tax benefit in respect of the reportable transaction; and

(b) if the person is described in paragraph (2)(c) or (d), the total of

(i) the amount of the fees charged by that person in respect of the reportable transaction,

(ii) $10,000, and

(iii) $1,000 multiplied by the number of days during which the failure continues, up to a maximum of $100,000.

Penalty – deeming rule

(8.1) If a person described in both paragraphs (2)(b) and (d) is liable to a penalty under subsection (8) in respect of a reportable transaction, the amount of the penalty is deemed to be equal to the greater of the amounts determined under paragraphs (8)(a) and (b).

Determining carrying value

(8.2) For the purpose of subparagraph (8)(a)(i), the carrying value of the assets of a corporation is to be determined in accordance with paragraphs 181(3)(a) and (b).

(9) Section 237.3(10) of the Act is repealed.

(10) Subsection 237.3(13) of the Act is replaced by the following:

Application of sections 231 to 231.3

(13) Without restricting the generality of sections 231 to 231.3, even if a return of income has not been filed by a taxpayer under section 150 for a taxation year of the taxpayer in which a transaction occurs which is relevant to the tax benefit referred to in paragraph (2)(a) that results (or is expected to result) from the reportable transaction, sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain any information in respect of the reportable transaction.

(11) Subsections (1) to (10) apply with respect to reportable transactions entered into after 2021, except that subsections (8) to (8.2) of the Act do not apply in respect of transactions entered into before this Act receives royal assent.

45 (1) The Act is amended by adding the following after section 237.3:

Definitions

237.4 (1) The following definitions apply in this section.

advisor, in respect of a notifiable transaction, means each person who provides, directly or indirectly in any manner whatever, any assistance or advice with respect to creating, developing, planning, organizing or implementing the notifiable transaction, to another person (including any person who enters into the notifiable transaction for the benefit of another person). (*conseiller*)

fee, in respect of a notifiable transaction, has the same meaning as in subsection 237.3(1). (*honoraires*)

notifiable transaction, at any time,means

(a) a transaction that is the same as, or substantially similar to, a transaction that is designated at that time by the Minister under subsection (3); and

(b) a transaction in a series of transactions that is the same as, or substantially similar to, a series of transactions that is designated at that time by the Minister under subsection (3). (*opération à signaler*)

person includes a partnership. (*personne*)

promoter, in respect of a notifiable transaction, has the same meaning as in subsection 237.3(1). (*promoteur*)

tax benefit has the same meaning as in subsection 245(1). (*avantage fiscal*)

tax treatment has the same meaning as in subsection 237.3(1). (*traitement fiscal*)

transaction has the same meaning as in subsection 245(1). (*opération*)

Interpretation — substantially similar

(2) For the purposes of the definition *notifiable transaction* in subsection (1), the term "substantially similar"

(a) includes any transaction, or series of transactions, in respect of which a person is expected to obtain the same or similar types of *tax consequences* (as defined in subsection 245(1)) and that is either factually similar or based on the same or similar tax strategy; and

(b) is to be interpreted broadly in favour of disclosure.

Designation of notifiable transactions

(3) The Minister may designate for the purposes of this section, with the concurrence of the Minister of Finance, in such manner as the Minister considers appropriate, transactions or series of transactions.

Requirement to file return

(4) An information return in prescribed form and containing prescribed information in respect of a notifiable transaction must be filed with the Minister by

(a) every person for whom a tax benefit results, or for whom a tax benefit is expected to result based on the person's tax treatment of the notifiable transaction, from

(i) the notifiable transaction,

(ii) any other notifiable transaction that is part of a series of transactions that includes the notifiable transaction, or

(iii) a series of transactions that includes the notifiable transaction;

(b) every person who has entered into, for the benefit of a person described in paragraph (a), the notifiable transaction;

(c) every advisor or promoter in respect of the notifiable transaction; and

(d) every person who is not dealing at arm's length with an advisor or promoter described in paragraph (c) and who is or was entitled, either immediately or in the future and either absolutely or contingently, to a fee in respect of the notifiable transaction.

Time for filing return

(5) An information return required under subsection (4) to be filed with the Minister for a notifiable transaction must be filed by

(a) a person described in paragraph (4)(a) or (b) on or before the particular day that is 45 days after the earliest of

(i) the day on which the person becomes contractually obligated to enter into the notifiable transaction,

(ii) the day on which the person enters into the notifiable transaction, and

(iii) if the person is described in paragraph (4)(a) and a person described in paragraph (4)(b) enters into the notifiable transaction for the benefit of the person described in paragraph (4)(a), the day on which the notifiable transaction is entered into; and

(b) a person described in paragraph (4)(c) or (d) no later than the earliest particular day described in paragraph (a) for a person described in paragraph (4)(a) or (b) in respect of the notifiable transaction.

Clarification of reporting transactions in series

(6) For greater certainty, and subject to subsection (11), if subsection (4) applies to a person in respect of each transaction that is part of a series of transactions that includes a notifiable transaction, the filing of the information return by the person that reports each transaction in the series is deemed to satisfy the obligation of the person under subsection (4) in respect of each transaction so reported.

Assessments

(7) Notwithstanding subsections 152(4) to (5), the Minister may make any assessments, determinations and redeterminations that are necessary to give effect to subsection (8).

Penalty

(8) Every person who fails to file an information return in respect of a notifiable transaction as required under subsection (4) on or before the particular day required under subsection (5) is liable to a penalty equal to

(a) if the person is described in paragraph (4)(a) or (b),

(i) if the person is a corporation and the carrying value of the corporation's assets is greater than or equal to $50 million for its last taxation year that ends prior to the day on which the information return is required to be filed under subsection (4), $2,000 multiplied by the number of weeks during which the failure continues, to a maximum amount equal to the greater of

(A) $100,000, and

(B) 25% of the amount of the tax benefit in respect of the notifiable transaction, and

(ii) in any other case, $500 multiplied by the number of weeks during which the failure continues, to a maximum amount equal to the greater of

(A) $25,000, and

(B) 25% of the amount of the tax benefit in respect of the notifiable transaction; and

(b) if the person is described in paragraph (4)(c) or (d), the total of

(i) the amount of the fees charged by that person in respect of the notifiable transaction,

(ii) $10,000, and

(iii) $1,000 multiplied by the number of days during which the failure continues, up to a maximum of $100,000.

Penalty – deeming rule

(9) If a person described in both paragraphs (4)(b) and (d) is liable to a penalty under subsection (8) in respect of a notifiable transaction, the amount of the penalty is deemed to be equal to the greater of the amounts determined under paragraphs (8)(a) and (b).

Determining carrying value

(10) For the purpose of subparagraph (8)(a)(i), the carrying value of the assets of a corporation is to be determined in accordance with paragraphs 181(3)(a) and (b).

Joint and several liability

(11) If more than one person is liable to a penalty under subsection (8) in respect of a notifiable transaction, each of those persons are jointly and severally, or solidarily, liable to pay the penalty.

Due diligence

(12) A person required to file an information return in respect of a notifiable transaction is not liable for a penalty under subsection (8) if the person has exercised the degree of care, diligence and skill to prevent the failure to file that a reasonably prudent person would have exercised in comparable circumstances.

Reporting not an admission

(13) The filing of an information return under this section by a person in respect of a notifiable transaction is not an admission by the person that any transaction is part of a series of transactions.

Application of ss. 231 to 231.3

(14) Without restricting the generality of sections 231 to 231.3, even if a return of income has not been filed by a taxpayer under section 150 for a taxation year of the taxpayer in which a transaction occurs which is relevant to the tax benefit referred to in paragraph (4)(a) that results (or is expected to result) from a notifiable transaction, sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain any information in respect of the notifiable transaction.

Solicitor-client privilege

(15) For greater certainty, for the purpose of this section, a lawyer who is an advisor in respect of a notifiable transaction is not required to disclose in an information return in respect of the transaction any information in respect of which the lawyer, on reasonable grounds, believes that a client of the lawyer has solicitor-client privilege.

(2) Subsection (1) applies with respect to notifiable transactions entered into after 2021, except that subsections 237.4(8) to (10) of the Act, as enacted by subsection (1), do not apply to transactions entered into before this Act receives royal assent.

46 (1) The Act is amended by adding the following after section 237.4:

Definitions

237.5 (1) The following definitions apply in this section.

consolidated financial statements has the same meaning as in subsection 233.8(1). (*états financiers consolidés*)

person includes a partnership. (*personne*)

relevant financial statements, of a corporation for a taxation year, means audited financial statements that are prepared

(a) in respect of

(i) the corporation, or

(ii) a group, of which the corporation is a member, of two or more persons required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles;

(b) in accordance with

(i) International Financial Reporting Standards, or

(ii) other country-specific generally accepted accounting principles (such as U.S. generally accepted accounting principles) relevant for corporations that are listed on a stock exchange outside Canada; and

(c) for a period of time that ends in, the taxation year. (*états financiers de référence*)

reportable uncertain tax treatment, of a corporation for a taxation year, means a tax treatment of the corporation in respect of which uncertainty is reflected in relevant financial statements of the corporation for the year. (*traitement fiscal incertain à déclarer*)

reporting corporation, for a taxation year, means a corporation if

(a) the corporation has relevant financial statements for the year;

(b) the carrying value of the corporation's assets is greater than or equal to $50 million at the end of the year; and

(c) the corporation is required to file a return of income for the year under section 150. (*société déclarante*)

tax treatment, of a corporation, means a treatment in respect of a transaction, or series of transactions, that the corporation uses, or plans to use, in a return of income or an information return (or would use in a return of income or an information return if a return of income or an information return were filed) and includes the corporation's decision not to include a particular amount in a return of income or an information return. (*traitement fiscal*)

transaction has the same meaning as in subsection 245(1). (*opération*)

Requirement to file return

(2) Every reporting corporation for a taxation year that has one or more reportable uncertain tax treatments for the year shall file with the Minister an information return in prescribed form and containing prescribed information in respect of each reportable uncertain tax treatment of the corporation for the year.

Time for filing return

(3) An information return required under subsection (2) to be filed by a corporation for a taxation year must be filed with the Minister on or before the corporation's filing-due date for the year.

Assessments

(4) Notwithstanding subsections 152(4) to (5), the Minister may make any assessments, determinations and redeterminations that are necessary to give effect to subsection (5).

Penalty

(5) Every corporation that fails to report a reportable uncertain tax treatment on an information return as required under subsection (2) on or before the day required under subsection (3) is liable to a penalty, for each such failure to report, equal to $2,000 multiplied by the number of weeks during which the failure continues, up to a maximum of $100,000.

Due diligence

(6) A corporation required to file an information return in respect of a reportable uncertain tax treatment is not liable for a penalty under subsection (5) if the corporation has exercised the degree of care, diligence and skill to prevent the failure to file that a reasonably prudent person would have exercised in comparable circumstances.

Reporting not an admission

(7) The filing of an information return in respect of a reportable uncertain tax treatment as required under subsection (2) by a corporation is not an admission by the corporation that

(a) the tax treatment is not in accordance with this Act or the regulations; or

(b) any transaction is part of a series of transactions.

Application of ss. 231 to 231.3

(8) Without restricting the generality of sections 231 to 231.3, if a corporation is required to file an information return under subsection (2) in respect of a reportable uncertain tax treatment of the corporation for a taxation year, even if a return of income has not been filed by the corporation under section 150 for the year, sections 231 to 231.3 apply, with

such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain any information in respect of the reportable uncertain tax treatment including, for greater certainty, any information relating to any transaction, or series of transactions, to which the reportable uncertain tax treatment relates.

Determining carrying value

(9) For the purposes of the definition ***reporting corporation*** in subsection (1), the carrying value of the assets of a corporation is to be determined in accordance with paragraphs 181(3)(a) and (b).

(2) Subsection (1) applies to taxation years that begin after 2021, except that subsection 237.5(5) of the Act, as enacted by subsection (1), does not apply to taxation years that begin before this Act receives royal assent.

Avoidance of Tax Debts

47 (1) Section 160 of the Act is amended by adding the following before subsection (1):

Interpretation

(0.1) In this section and section 160.01, a transaction includes an arrangement or event.

(2) Paragraph 160(1)(d) of the French version of the Act is replaced by the following:

d) le bénéficiaire du transfert et l'auteur du transfert sont solidairement responsables du paiement d'une partie de l'impôt de l'auteur du transfert en vertu de la présente partie pour chaque année d'imposition égale à l'excédent de l'impôt pour l'année sur ce que cet impôt aurait été sans l'application des articles 74.1 à 75.1 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, à l'égard de tout revenu tiré des biens ainsi transférés ou des biens y substitués ou à l'égard de tout gain tiré de la disposition de tels biens;

(3) The portion of paragraph 160(1)(e) of the French version of the Act before subparagraph (i) is replaced by the following:

e) le bénéficiaire du transfert et l'auteur du transfert sont solidairement responsables du paiement en vertu de la présente loi d'un montant égal au moins élevé des montants suivants :

(4) Section 160 of the Act is amended by adding the following after subsection (4):

Anti-avoidance rules

(5) For the purposes of subsections (1) to (4), if a person (referred to in this section as the "transferor") has transferred property either directly or indirectly, by means of a trust or by any other means whatever to another person (referred to in this section as the "transferee") in a transaction or as part of a series of transactions

(a) the transferor is deemed to not be dealing at arm's length with the transferee at all times in the transaction or series of transactions if

(i) at any time during the period beginning immediately prior to the transaction or series of transactions and ending immediately after the transaction or series of transactions, the transferor and transferee do not deal at arm's length, and

(ii) it is reasonable to conclude that one of the purposes of undertaking or arranging the transaction or series of transactions is to avoid joint and several, or solidary, liability of the transferee and transferor for an amount payable under this Act;

(b) an amount that the transferor is liable to pay under this Act (including, for greater certainty, an amount that the transferor is liable to pay under this section, regardless of whether the Minister has made an assessment under subsection (2) for that amount) is deemed to have become payable in the taxation year in which the property was

transferred, if it is reasonable to conclude that one of the purposes for the transfer of property is to avoid the payment of future tax debt by the transferor or transferee; and

(c) the amount determined under subparagraph (1)(e)(i) is deemed to be the greater of

(i) the amount otherwise determined under that subparagraph without reference to this paragraph; and

(ii) the amount determined by the formula

A – B

where

A is the fair market value of the property at the time of the transfer, and

B is

(A) the lowest fair market value of the consideration (that is held by the transferor) given for the property at any time during the period beginning immediately prior to the transaction or series of transactions and ending immediately after the transaction or series of transactions, or

(B) if the consideration is in a form that is cancelled or extinguished during the period, nil.

(5) Subsections (1) to (4) are deemed to have come into force on April 19, 2021.

48 (1) The Act is amended by adding the following after section 160:

Definitions

160.01 (1) The following definitions apply in this section.

culpable conduct has the same meaning as in subsection 163.2(1). (*conduite coupable*)

gross entitlement of a person at any time, in respect of a planning activity of the person, means all amounts to which the person, or another person not dealing at arm's length with the person, is entitled, either before or after that time and either absolutely or contingently, to receive or obtain in respect of the activity. (*droits à paiement*)

person includes a partnership. (*personne*)

planning activity has the same meaning as in subsection 163.2(1). (*activité de planification*)

section 160 avoidance planning by a person, means planning activity in respect of a transaction or series of transactions that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, has as one of its main purposes the reduction of a transferee's joint and several, or solidary, liability for tax payable under this Act by a transferor (or that would be payable by the transferor if not for a tax attribute transaction). (*planification d'évitement en vertu de l'article 160*)

tax attribute means a balance, pool or other amount determined under this Act that is or may be relevant in computing income or in determining a taxpayer's liability for tax under this Act in any taxation year and includes,

(a) a capital loss, non-capital loss, restricted farm loss, farm loss and limited partnership loss;

(b) an amount that is deductible in computing the person's income;

(c) any balance of undeducted outlays, expenses or other amounts;

(d) paid-up capital in respect of a share of any class of the capital stock of a corporation;

(e) cost or capital cost of a property;

(f) an amount deductible from an amount otherwise payable under the Act; and

(g) an amount that is deemed to have been remitted as an amount payable under the Act. (*attribut fiscal*)

tax attribute transaction means a transaction or series of transactions in which a tax attribute – of a person that dealt at arm's length with a transferor or transferee immediately before the transaction or series of transactions – is used, directly or indirectly, to provide a tax benefit for the transferor (or, if the transferor is amalgamated with another corporation, the "new corporation" as defined in subsection 87(1)). (*opération d'attribut fiscal*)

tax benefit has the same meaning as in subsection 163.2(1). (*avantage fiscal*)

transferee refers to "transferee" as used in subsections 160(1) and (5). (*bénéficiaire du transfert*)

transferor refers to "transferor" as used in subsections 160(1) and (5). (*auteur du transfert*)

Penalty

(2) Every person who engages, participates in, assents to or acquiesces in section 160 avoidance planning is liable to a penalty that is the lesser of

(a) 50% of the amount payable under this Act (determined without reference to this subsection), the joint and several, or solidary, liability for which was sought to be avoided through the planning; and

(b) the total of $100,000 and the person's gross entitlements at the time at which the notice of assessment of the penalty is sent to the person in respect of the planning.

Clerical or secretarial services

(3) Subsection (2) does not apply to a person solely because the person provided clerical services or secretarial services with respect to the planning.

(2) Subsection (1) is deemed to apply in respect of a transaction or series of transactions that occur on or after April 19, 2021.

Registration and Revocation Rules Applicable to Charities

49 (1) Subsection 188(1.2) of the Act is replaced by the following:

Winding-up period

(1.2) In this Part, the winding-up period of a charity is the period

(a) that begins immediately after the earliest of the days on which

(i) the Minister issues a notice of intention to revoke the registration of the charity under any of subsections 149.1(2) to (4.1) and 168(1),

(ii) the charity becomes a listed terrorist entity, and

(iii) it is determined, under subsection 7(1) of the *Charities Registration (Security Information) Act*, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available; and

(b) that ends on the day that is the latest of

(i) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,

(ii) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and

(iii) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

(2) Subsection (1) is deemed to have come into force on June 29, 2021.

Taxes Applicable to Registered Investments

50 (1) Subsection 204.6(1) of the Act is replaced by the following:

Tax payable

204.6 (1) If at the end of any month a taxpayer that is a registered investment described in paragraph 204.4(2)(b), (d) or (f) holds property that is not a prescribed investment for that taxpayer, it shall, in respect of that month, pay a tax under this Part equal to the total of all amounts each of which is an amount determined in respect of such a property by the formula

0.01(A × B/C)

where

A is the fair market value of the property at the time of its acquisition by the taxpayer,

B is the total number of units or shares of the capital stock of the registered investment held at the end of the month by one or more

(a) trusts that are governed by any of a RDSP, RESP, RRIF, RRSP, TFSA or deferred profit sharing plan; or

(b) registered investments described in paragraph 204.4(2)(b), (d) or (f), and

C is the total number of issued units or issued and outstanding shares of the capital stock of the registered investment at the end of the month.

(2) Subsection (1) applies in respect of any month after 2020. It also applies in respect of any month before 2021 if, on or before April 19, 2021,

(a) no notice of assessment in respect of an amount payable under subsection 204.6(1) of the Act for the month had been sent to the taxpayer in respect of the month, or

(b) if such a notice of assessment had been sent to the taxpayer in respect of the month on or before that date, the taxpayer had rights of objection or appeal in respect of the assessment on that date.

Audit Authorities

51 (1) Subsection 231.1(1) of the Act is replaced by the following:

Information gathering

231.1 (1) An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act,

(a) inspect, audit or examine any document, including books and records, of a taxpayer or any other person that may be relevant in determining the obligations or entitlements of the taxpayer or any other person under this Act;

(b) examine any property or process of, or matter relating to, a taxpayer or any other person, an examination of which may assist the authorized person in determining the obligations or entitlements of the taxpayer or any other person under this Act;

(c) enter any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept, except that, if the premises or place is a dwelling-house, the authorized person may enter the dwelling-house without the consent of the occupant only under the authority of a warrant under subsection (3);

(d) require a taxpayer or any other person to give the authorized person all reasonable assistance, to answer all proper questions relating to the administration or enforcement of this Act and

(i) to attend with the authorized person, at a place designated by the authorized person, or by video-conference or by another form of electronic communication, and to answer the questions orally, and

(ii) to answer the questions in writing, in any form specified by the authorized person; and

(e) require a taxpayer or any other person to give the authorized person all reasonable assistance with anything the authorized person is authorized to do under this Act.

(2) Subsection 231.1(2) of the Act is repealed.

Capital Cost Allowance for Clean Energy Equipment

52 (1) The definitions *biogas* and *producer gas* in subsection 1104(13) of the Regulations are replaced by the following:

biogas means the gas produced by the anaerobic digestion of specified waste material. (*biogaz*)

producer gas means

(a) in respect of a property of a taxpayer that becomes available for use by the taxpayer before 2025, fuel the composition of which, excluding its water content, is all or substantially all non-condensable gases that is generated primarily from eligible waste fuel or specified waste material using a thermo-chemical conversion process and that is not generated from any feedstock other than eligible waste fuel, specified waste material or fossil fuel; and

(b) in respect of a property of a taxpayer that becomes available for use by the taxpayer after 2024, fuel

(i) the composition of which, excluding its water content, is all or substantially all non-condensable gases,

(ii) that is generated using a thermo-chemical conversion process,

(iii) that is generated from feedstock of which no more than 25 per cent is fossil fuel when measured in terms of energy content (expressed as a higher heating value of the feedstock), and

(iv) that is not generated from any feedstock other than eligible waste fuel, specified waste material or fossil fuel. (*gaz de gazéification*)

(2) The definitions *plant residue* and *separated organics* in subsection 1104(13) of the Regulations are replaced by the following:

plant residue means residue of plants (not including wood waste and waste that no longer has the chemical properties of the plants of which it is a residue) that would otherwise be waste material. (*résidus végétaux*)

separated organics means organic waste (other than waste that is considered to be toxic or hazardous waste under any law of Canada or a province) that could be disposed of in an eligible waste management facility or eligible landfill site. (*matières organiques séparées*)

(3) Subsection 1104(13) of the Regulations is amended by adding the following in alphabetical order:

gaseous biofuel means a fuel produced all or substantially all from specified waste material that is a gas at a temperature of 15.6°C (60°F) and a pressure of 101 kPa (14.7 psia). (*biocarburants gazeux*)

liquid biofuel means a fuel produced all or substantially all from specified waste material or carbon dioxide that is a liquid at a temperature of 15.6°C (60°F) and a pressure of 101 kPa (14.7 psia). (*biocarburants liquides*)

solid biofuel means a fuel produced all or substantially all from specified waste material that is a solid at a temperature of 15.6°C (60°F) and a pressure of 101 kPa (14.7 psia) (other than charcoal that is used for cooking or fuels with fossil fuel-derived ignition accelerants) and that has undergone

(a) a thermo-chemical conversion process to increase its carbon fraction and densification, or

(b) densification into pellets or briquettes. (*biocarburants solides*)

specified waste material means wood waste, plant residue, municipal waste, sludge from an eligible sewage treatment facility, spent pulping liquor, food and animal waste, manure, pulp and paper by-product and separated organics. (*déchets déterminés*)

(4) Subsection (1) applies in respect of property acquired after April 18, 2021 that has not been used or acquired for use before April 19, 2021.

(5) Subsections (2) and (3) are deemed to have come into force on April 19, 2021.

53 (1) Clause 1104(17)(a)(ii)(A) of the Regulations is replaced by the following:

(A) any of subparagraphs (d)(vii) to (ix), (xi), (xiii), (xiv), (xvi), (xvii) and (xix) to (xxii) of Class 43.1, or

(2) Subsection (1) applies to property acquired after April 18, 2021 that has not been used or acquired for use before April 19, 2021.

54 (1) Subparagraphs (c)(i) and (ii) of Class 43.1 in Schedule II to the Regulations are replaced by the following:

(i) part of a system that

(A) is used by the taxpayer, or by a lessee of the taxpayer, to generate electrical energy, or both electrical and heat energy, using only fuel that is eligible waste fuel, fossil fuel, producer gas, spent pulping liquor or any combination of those fuels,

(B) if the system is rated to generate more than three megawatts of electrical energy, meets the following condition on an annual basis:

$$A \geq (2 \times B + C)/(D + E/3412)$$

where

A is 11,000 BTU per kilowatt-hour,

B is the energy content of fossil fuel other than solution gas (expressed as the higher heating value of the fuel) consumed by the system in BTU,

C is the energy content of the eligible waste fuel, producer gas and spent pulping liquor (expressed as the higher heating value of the fuel) consumed by the system in BTU,

D is the gross electrical energy produced by the system in kilowatt-hours, and

E is the net useful energy in the form of heat exported from the system to a thermal host in BTU, and

(C) uses fuel of which no more than 25 per cent of the energy content (expressed as the higher heating value of the fuel) is from fossil fuel, as determined on an annual basis, or

(2) Clause (d)(i)(B) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(B) it is not a building, part of a building (other than a solar collector that is not a window and that is integrated into a building), energy equipment that backs up equipment described in subclause (A)(I) or (II) nor equipment that distributes heated or cooled air or water in a building,

(3) Paragraph (d)(iv) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(iv) heat recovery equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of conserving energy, reducing the requirement to acquire energy or extracting heat for sale, by extracting for reuse thermal waste that is generated directly in an industrial process (other than an industrial process that generates or processes electrical energy), including such equipment that consists of heat exchange equipment, compressors used to upgrade low pressure steam, vapour or gas, waste heat boilers and other ancillary equipment such as control panels, fans, instruments or pumps, but not including property that is employed in re-using the recovered heat (such as property that is part of the internal heating or cooling system of a building or electrical generating equipment) or is a building,

(4) Subparagraph (d)(vii) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(vii) equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electrical energy or heat energy, or both electrical and heat energy, solely from geothermal energy, including such equipment that consists of piping (including above or below ground piping and the cost of completing a well (including the wellhead and production string), or trenching, for the purpose of installing that piping), pumps, heat exchangers, steam separators, electrical generating equipment and ancillary equipment used to collect the geothermal heat, but not including buildings, distribution equipment, equipment described in subclause (i)(A)(II), property otherwise included in Class 10 and property that would be included in Class 17 if that Class were read without reference to its paragraph (a.1),

(5) Subparagraph (d)(ix) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(ix) equipment that

(A) is used by the taxpayer, or by a lessee of the taxpayer, for the sole purpose of generating heat energy, not using any fuel other than eligible waste fuel, fossil fuel, producer gas or a combination of those fuels,

(B) uses fuel of which no more than 25 per cent of the energy content (expressed as the higher heating value of the fuel) is from fossil fuel, as determined on an annual basis

(C) may include

(I) fuel handling equipment used to upgrade the combustible portion of the fuel,

(II) control, feedwater and condensate systems, and

(III) other ancillary equipment, and

(D) does not include

(I) equipment used for the purpose of producing heat energy to operate electrical generating equipment,

(II) buildings or other structures,

(III) heat rejection equipment (such as condensers and cooling water systems),

(IV) fuel storage facilities,

(V) other fuel handling equipment, and

(VI) property otherwise included in Class 10 or 17,

(6) Subparagraph (d)(xi) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(xi) equipment all or substantially all of the use of which by the taxpayer, or by a lessee of the taxpayer, is to produce liquid biofuel, including storage, materials handling and ash-handling equipment and equipment used to remove non-combustibles and contaminants from the fuels produced, but not including

(A) equipment used to produce spent pulping liquor,

(B) equipment used for the collection or transportation of specified waste material or carbon dioxide,

(C) equipment used for the transmission or distribution of liquid biofuel,

(D) property that would otherwise be included in Class 17,

(E) automotive vehicles, and

(F) buildings or other structures,

(7) Subparagraph (d)(xii) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(xii) fixed location fuel cell equipment used by the taxpayer, or by a lessee of the taxpayer, that uses hydrogen generated only from ancillary electrolysis equipment (or, if the fuel cell is reversible, the fuel cell itself) using electricity all or substantially all of which is generated by using kinetic energy of flowing water or wave or tidal energy or by geothermal, photovoltaic, wind energy conversion, or hydro-electric equipment, of the taxpayer or the lessee, and equipment ancillary to the fuel cell equipment other than buildings or other structures, transmission equipment, distribution equipment, auxiliary electrical generating equipment and property otherwise included in Class 10 or 17,

(8) Subparagraph (d)(xiv) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(xiv) property that is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electricity using kinetic energy of flowing water or wave or tidal energy, including support structures, control and conditioning equipment, submerged cables and transmission equipment, but not including buildings, distribution equipment, auxiliary electricity generating equipment, property otherwise included in Class 10 and property that would be included in Class 17 if that class were read without reference to its subparagraph (a.1)(i),

(9) Subparagraph (d)(xvi) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(xvi) equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating producer gas (other than producer gas that is to be converted into liquid fuels or chemicals), including related piping (including fans and compressors), air separation equipment, storage equipment, equipment used for drying or shredding feedstock, ash-handling equipment, equipment used to upgrade the producer gas into biomethane and equipment used to remove non-combustibles and contaminants from the producer gas, but not including, buildings or other structures, heat rejection equipment (such as condensers and cooling water systems), equipment used to convert producer gas into liquid fuels or chemicals, and property otherwise included in Class 10 or 17,

(10) Subparagraph (d)(xvi) of Class 43.1 in Schedule II to the Regulations is replaced by the following:

(xvi) equipment that

(A) is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating producer gas (other than producer gas that is to be converted into liquid fuels or chemicals),

(B) uses feedstock of which no more than 25 per cent of the energy content (expressed as the higher heating value of the feedstock) is from fossil fuel, as determined on an annual basis,

(C) may include

(I) related piping (including fans and compressors),

(II) air separation equipment,

(III) storage equipment,

(IV) equipment used for drying or shredding feedstock,

(V) ash-handling equipment,

(VI) equipment used to upgrade the producer gas into biomethane, and

(VII) equipment used to remove non-combustibles and contaminants from the producer gas, and

(D) does not include

(I) buildings or other structures,

(II) heat rejection equipment (such as condensers and cooling water systems),

(III) equipment used to convert producer gas into liquid fuels or chemicals, and

(IV) property otherwise included in Class 10 or 17,

(11) Paragraph (d) of Class 43.1 in Schedule II to the Regulations is amended by striking out "or" at the end of subparagraph (xvii) and by adding the following after subparagraph (xviii):

(xix) a pumped hydroelectric energy storage installation all or substantially all of the use of which by the taxpayer, or by a lessee of the taxpayer, is to store electrical energy including reversing turbines, transmission equipment, dams, reservoirs and related structures, and that meets the condition in either subclause (d)(xviii)(B)(I) or (II) in this Class, but not including

(A) property used solely for backup electrical energy, and

(B) buildings,

(xx) equipment all or substantially all of the use of which by the taxpayer, or by a lessee of the taxpayer, is to produce solid biofuel, including storage, materials handling and ash-handling equipment, but not including

(A) equipment used to make wood chips, hog fuel or black liquor,

(B) property that would otherwise be included in Class 17,

(C) automotive vehicles, and

(D) buildings and other structures,

(xxi) equipment used by the taxpayer, or by a lessee of the taxpayer, to dispense hydrogen for use in automotive equipment powered by hydrogen, including vaporization, compression, cooling and storage equipment, but not including

(A) equipment used for the production or transmission of hydrogen,

(B) equipment used for the transmission or distribution of electricity,

(C) automotive vehicles,

(D) auxiliary electrical generating equipment, and

(E) buildings and other structures, or

(xxii) equipment all or substantially all of the use of which by the taxpayer, or by a lessee of the taxpayer, is to produce hydrogen through electrolysis of water, including electrolysers, rectifiers and other ancillary electrical equipment, water treatment and conditioning equipment and equipment used for hydrogen compression and storage, but not including

(A) equipment used for the transmission or distribution of hydrogen,

(B) equipment used for the transmission or distribution of electricity,

(C) automotive vehicles,

(D) auxiliary electrical generating equipment, and

(E) buildings and other structures, and

(12) Subsections (1), (5) and (10) apply in respect of property of a taxpayer that becomes available for use by the taxpayer after 2024.

(13) Subsections (2) to (4), (6) to (9) and (11) apply to property acquired after April 18, 2021 that has not been used or acquired for use before April 19, 2021.

55 (1) Paragraph (a) of Class 43.2 in Schedule II to the Regulations is replaced by the following:

(a) otherwise than because of paragraph (d) of that Class; or

(2) Subparagraph (b)(i) of Class 43.2 in Schedule II to the Regulations is repealed.

(3) Subsections (1) and (2) apply in respect of property of a taxpayer that becomes available for use by the taxpayer after 2024.

Interest Deductibility Limits

56 (1) Subsection 12(1) of the Act is amended by adding the following after paragraph (l.1):

Partnership — interest and financing expenses add back

(l.2) the amount determined by the formula

A × B

where

A is the total of all amounts each of which is an amount determined under paragraph (g) of the definition *interest and financing expenses* in subsection 18.2(1) in respect of the taxpayer for the taxation year, and

B is

(i) if the taxpayer is an *excluded entity* for the year (as defined in subsection 18.2(1)), nil, and

(ii) in any other case, the proportion determined under the formula in subsection 18.2(2) in respect of the taxpayer for the year;

(2) Subsection 12(2.02) of the Act is replaced by the following:

Source of income

(2.02) For the purposes of this Act, if a particular amount is included in computing the income of a taxpayer for a taxation year because of paragraph (1)(l.1) or (l.2) and the particular amount is in respect of another amount that is deductible by a partnership in computing its income from a particular source or from sources in a particular place, the particular amount is deemed to be from the particular source or from sources in the particular place, as the case may be.

(3) Subsections (1) and (2) apply in respect of taxation years of a taxpayer that begin on or after January 1, 2023. However, subsections (1) and (2) also apply in respect of a taxation year of a taxpayer that begins before, and ends after, January 1, 2023 if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection (1) or subsection 58(1) to the taxpayer.

57 (1) The portion of subsection 18(4) of the Act before paragraph (a) is replaced by the following:

Limitation on deduction of interest

(4) Notwithstanding any other provision of this Act (other than subsection (8)), in computing the income for a taxation year of a corporation or a trust from a business (other than the Canadian banking business of an authorized foreign bank) or property, no deduction shall be made in respect of that proportion of any amount that would, in the absence of this subsection and section 18.2, be deductible in computing that income in respect of interest paid or payable by it on outstanding debts to specified non-residents that

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after January 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before January 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection 56(1) or 58(1) to the taxpayer.

58 (1) The Act is amended by adding the following after section 18.1:

Definitions

18.2 (1) The following definitions apply in this section and section 18.21.

absorbed capacity of a taxpayer for a taxation year means the lesser of

(a) the taxpayer's cumulative unused excess capacity for the year, determined as if the taxpayer's absorbed capacity for the year were nil, and

(b) the amount determined by the formula

A – (B + C)

where

A is the taxpayer's interest and financing expenses for the year,

B is

(i) if subsection 18.21(3) applies in respect of the taxpayer for the year, the amount determined in respect of the taxpayer for the year under that subsection, and

(ii) in any other case, the amount determined by the formula

D × E

where

D is the taxpayer's ratio of permissible expenses for the year, and

E is the taxpayer's adjusted taxable income for the year, and

C is the taxpayer's interest and financing revenues for the year. (*capacité absorbée*)

adjusted taxable income of a taxpayer for a taxation year means the amount determined by the formula

A + B – C

where

A is the positive or negative amount determined by the formula

D – E

where

D is

(a) if the taxpayer is non-resident, the taxpayer's taxable income earned in Canada for the year (determined without regard to subsection (2)), and

(b) in any other case, the taxpayer's taxable income for the year (determined without regard to subsection (2)), and

E is the total of

(a) the taxpayer's non-capital loss for the year (determined without regard to subsection (2)), and

(b) the taxpayer's net capital loss for the year;

B is the total of all amounts each of which is

(a) the taxpayer's interest and financing expenses (other than any amounts described in paragraph (c) of the definition "interest and financing expenses") for the year,

(b) an amount deducted by the taxpayer in computing its income for the year under paragraph 20(1)(a),

(c) in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the following formula

F × G/H – I

where

F is an amount that is deducted by the partnership under paragraph 20(1)(a) in computing its income or loss from the source, or the source in a particular place, for the fiscal period,

G is the taxpayer's share of the income or loss of the partnership from the source, or the source in a particular place, for the fiscal period,

H is the income or loss of the partnership from the source, or the source in a particular place, for the fiscal period, and

I is the portion of an amount referred to in the description of F that can reasonably be considered to not be deductible in computing the taxpayer's income for the year, and to not be included in computing the taxpayer's non-capital loss for the year, because of subsection 96(2.1);

(d) the portion of an amount deducted under paragraph 111(1)(e) for the year, in respect of a partnership of which the taxpayer is a member, that can reasonably be considered to be attributable to an amount referred to in

the description of I in paragraph (c) in respect of a fiscal period of the partnership ending in a preceding taxation year of the taxpayer,

(e) an amount deducted by the taxpayer under paragraph 110(1)(k) or 111(1)(a.1) in computing its taxable income for the year,

(f) an amount deducted by the taxpayer under subsection 104(6) in computing its income for the year, or

(g) an amount determined by the formula

J × K/L

where

J is the amount deducted by the taxpayer under paragraph 111(1)(a) in computing its taxable income for the year, in respect of the taxpayer's non-capital loss for another taxation year,

K is the lesser of

(i) the non-capital loss for the other taxation year, and

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

(A) the amount by which the total amount deducted in computing the taxpayer's income for the other taxation year in respect of interest and financing expense of the taxpayer for the other taxation year exceeds the interest and financing revenues of the taxpayer for the other taxation year, or

(B) an amount deducted by the taxpayer in computing its taxable income for the other taxation year under paragraph 111(1)(a.1),

L is the non-capital loss for the other taxation year; and

C is the total of all amounts each of which is

(a) the taxpayer's interest and financing revenues for the year,

(b) in the case of a corporation

(i) 100/28 of the total of the amounts that would be deductible by it under subsection 126(1) from its tax for the year otherwise payable under this Part if those amounts were determined without reference to sections 123.3 and 123.4, or

(ii) the amount determined by multiplying the total of the amounts that would be deductible by it under subsection 126(2) from its tax for the year otherwise payable under this Part, if those amounts were determined without reference to section 123.4, by the relevant factor for the year,

(c) in the case of a trust, the amount determined by the following formula

M × (1/(N × O))

where

M is the total of the amounts deductible by it under subsection 126(1) or (2) from its tax for the year otherwise payable under this Part for the year,

N is the percentage (expressed as a decimal fraction) referred to in paragraph 122(1)(a) in respect of the year, and

O is 1 plus the percentage (expressed as a decimal fraction) referred to in subsection 120(1) in respect of the year,

(d) an amount included under section 110.5 in computing the taxpayer's taxable income for the year,

(e) an amount included under subsection 104(13) in computing the taxpayer's income for the year,

(f) an amount included under paragraph 12(1)(l.2) in computing the taxpayer's taxable income for the year, or

(g) an amount of the taxpayer's taxable income for the year that is not, because of an Act of Parliament, subject to tax under this Part. (*revenu imposable rajusté*)

cumulative unused excess capacity of a taxpayer for a particular taxation year means the total of all amounts each of which is

(a) the excess capacity of the taxpayer for the particular year, or

(b) the excess capacity of the taxpayer for any of the three immediately preceding taxation years, if the taxpayer's excess capacity for each of those years is determined according to the following rules:

(i) if the taxpayer has an amount of transferred capacity for any taxation year (referred to in this definition as the "transfer year") preceding the particular year,

(A) there are to be reductions to the taxpayer's excess capacity for the transfer year and the three taxation years immediately preceding the transfer year (each referred to in this subparagraph as a "relevant year") in a total amount equal to the total of all amounts each of which is an amount of transferred capacity of the taxpayer for the transfer year (referred to in this definition as the "total transferred capacity amount"), and

(B) the amount by which the taxpayer's excess capacity for a particular relevant year is to be reduced is equal to the lesser of

(I) the taxpayer's excess capacity for the particular relevant year, determined taking into consideration any reductions to that excess capacity under

1 this subparagraph, in respect of amounts of transferred capacity for years preceding the transfer year, and

2 subparagraph (ii), in respect of amounts of absorbed capacity for the transfer year and any years preceding the transfer year, and

(II) the amount, if any, by which the total transferred capacity amount for the transfer year exceeds the reductions, under this subparagraph in respect of that total transferred capacity amount, to the taxpayer's excess capacity for any relevant years preceding the particular relevant year; and

(ii) if the taxpayer has an amount of absorbed capacity for a taxation year (referred to in this definition as the "absorbed capacity year"),

(A) there are to be reductions to the taxpayer's excess capacity for the three taxation years immediately preceding the absorbed capacity year (each referred to in this subparagraph as a "relevant year") in a total amount equal to the amount of absorbed capacity for the absorbed capacity year, and

(B) the amount by which the taxpayer's excess capacity for a particular relevant year is to be reduced is equal to the lesser of

(I) the taxpayer's excess capacity for the particular relevant year, determined taking into account any reductions to that excess capacity under

1 subparagraph (i), in respect of amounts of transferred capacity for years preceding the absorbed capacity year, and

2 this subparagraph, in respect of amounts of absorbed capacity for years preceding the absorbed capacity year, and

(II) the amount, if any, by which the amount of absorbed capacity for the absorbed capacity year exceeds the reductions under this subparagraph in respect of that amount of absorbed capacity to the taxpayer's excess capacity for the relevant years preceding the particular relevant year. (*capacité excédentaire cumulative inutilisée*)

eligible group corporation in respect of a particular corporation resident in Canada, at any time, means another corporation resident in Canada that

(a) is, at that time, related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the particular corporation; or

(b) would, at that time, be affiliated with the particular corporation if section 251.1 were read without reference to the definition *controlled* in subsection 251.1(3). (*société admissible du groupe*)

eligible group entity, in respect of a taxpayer resident in Canada, at any time, means a corporation, or a trust, resident in Canada

(a) that is, at that time, related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the taxpayer;

(b) that would, at that time, be affiliated with the taxpayer if section 251.1 were read without reference to the definition *controlled* in subsection 251.1(3);

(c) that is a trust in respect of which the taxpayer's share of the income or capital depends, at any time, on the exercise by any person of, or the failure of any person to exercise, any discretionary power; or

(d) if the taxpayer is a trust, that is a beneficiary of the taxpayer whose share of the income or capital of the taxpayer depends, at any time, on the exercise by any person of, or the failure of any person to exercise, any discretionary power. (*entité admissible du groupe*)

excess capacity of a taxpayer for a taxation year means

(a) if subsection 18.21(3) applies in respect of the taxpayer for the year, nil; and

(b) in any other case, the amount determined by the formula

A – B – C

where

A is the amount determined by the formula

D × E + F

where

D is the ratio of permissible expenses of the taxpayer for the year,

E is the adjusted taxable income of the taxpayer for the year, and

F is the amount determined by the formula

G – H × I

where

G is the interest and financing revenues of the taxpayer for the year,

H is the ratio of permissible expenses of the taxpayer for the year, and

I is the lesser of

(i) the amount by which the interest and financing revenues of the taxpayer for the year exceed the interest and financing expenses of the taxpayer for the year, and

(ii) either

(A) if the adjusted taxable income of the taxpayer for the year would, in the absence of section 257, be a negative amount, the absolute value of the negative amount, or

(B) in any other case, nil,

B is the interest and financing expenses of the taxpayer for the year, and

C is the amount deductible by the taxpayer under paragraph 111(1)(a.1) in the year. (*capacité excédentaire*)

excluded entity for a particular taxation year means

(a) a corporation that is throughout the particular year a Canadian-controlled private corporation in respect of which the amount determined for C in paragraph 125(5.1)(a) for the year is less than $15,000,000;

(b) a particular taxpayer resident in Canada, if $250,000 is not less than the amount determined by the formula

A – B

where

A is the total of all amounts, each of which is the interest and financing expenses of

(i) the particular taxpayer for the particular taxation year, or

(ii) another taxpayer resident in Canada for a taxation year (referred to in this subparagraph as the "relevant taxation year") ending in the particular taxation year, if the other taxpayer is an eligible group entity in respect of the particular taxpayer at the end of the relevant taxation year, and

B is the amount that would be determined for A if

(i) the reference in the description of A to "interest and financing expenses" were read as a reference to "interest and financing revenues", and

(ii) the interest and financing revenues of a relevant financial institution were excluded; and

(c) a taxpayer resident in Canada in respect of which the following conditions are met:

(i) all or substantially all of each business of

(A) the taxpayer is, throughout the particular year, carried on in Canada, and

(B) each eligible group entity in respect of the taxpayer is, throughout the eligible group entity's taxation year that ends in the particular year, carried on in Canada,

(ii) no corporation is, at any time in the particular year, a foreign affiliate of the taxpayer or any eligible group entity in respect of the taxpayer,

(iii) neither the taxpayer nor an eligible group entity in respect of the taxpayer has, at any time in the particular year, a ***specified shareholder*** or a ***specified beneficiary*** (both as defined in subsection 18(5)) that is not resident in Canada, and

(iv) all or substantially all of the interest and financing expenses of the taxpayer and of any eligible group entity in respect of the taxpayer for the particular year are paid or payable to persons or partnerships that are not, at any time in the particular year, tax-indifferent investors. (*entité exclue*)

excluded interest means an amount of interest, if

(a) the interest is paid or payable by a corporation (in this definition referred to as the "payer corporation") to another corporation (in this definition referred to as the "payee corporation") in respect of a debt that is, throughout the period during which the interest accrued (in this definition referred to as the "relevant period"), owed by the payer corporation to the payee corporation;

(b) throughout the relevant period and at the time of payment

(i) the payer corporation and payee corporation are both taxable Canadian corporations, and

(ii) the payee corporation is an eligible group corporation in respect of the payer corporation; and

(c) the payer corporation and payee corporation jointly elect in writing in prescribed manner under this paragraph in respect of the amount of interest and file an election with the Minister that

(i) specifies the amount of interest and of the debt in respect of which this paragraph applies, and

(ii) is filed on or before the earlier of the filing-due date of

(A) the payer corporation for its taxation year in which the amount of interest was paid or became payable, and

(B) the payee corporation for its taxation year in which the amount of interest was paid or became payable. (*intérêts exclus*)

excluded lease for a taxation year of a taxpayer means a lease

(a) to which subsection 16.1(1) applies;

(b) that would not be considered to be a lease for a term of more than one year for purposes of paragraph (b) of the definition *specified leasing property* in the *Income Tax Regulations*; or

(c) that is in respect of property

(i) that would not be considered, at the time the lease was entered into, to have a fair market value in excess of $25,000 for purposes of paragraph (c) of that definition, or

(ii) that would be considered, at all times in the taxation year, exempt property for purposes of subsection 1100(1.13) of the *Income Tax Regulations*. (*bail exclu*)

interest and financing expenses of a taxpayer for a taxation year means the amount determined by the formula

A – B

where

A is the total of all amounts, each of which is

(a) an amount that

(i) is paid in, or payable in or in respect of, a year as, on account of, in lieu of payment of or in satisfaction of, interest (other than excluded interest),

(ii) would, in the absence of this section, be deductible (other than under a provision referred to in subparagraph (c)(i)) by the taxpayer in computing its income for the year, and

(iii) is not described in any other paragraph in this definition;

(b) an amount that, in the absence of this section and on the assumption that it is not deductible under another provision of this Act (other than any of the provisions referred to in subparagraph (c)(i)), would be deductible in computing the taxpayer's income for the year under any of subparagraphs 20(1)(e)(ii) to (ii.2) and paragraphs 20(1)(e.1), (e.2) and (f);

(c) the portion of an amount, if

(i) the amount, in the absence of this section, would be deductible in computing the taxpayer's income for the year and is claimed by the taxpayer under paragraph 20(1)(a), subsections 66(4), 66.1(2) or (3), 66.2(2), 66.21(4), 66.4(2), 66.7(1), (2), (2.3), (3), (4), or (5), and

(ii) the portion can reasonably be considered to be attributable to either

(A) an amount described in subparagraph (a)(i), or

(B) an amount that would otherwise have been deductible in a taxation year under a provision referred to in paragraph (b), but for the application of another provision of this Act;

(d) an amount that is paid or payable by the taxpayer or that is a loss or a capital loss of the taxpayer, as the case may be, under or as a result of an agreement or arrangement, if the following conditions are met:

(i) the amount would, in the absence of this section

(A) be deductible (other than under subparagraph 20(1)(e)(i)) in computing the taxpayer's income for the year, or

(B) in the case of a capital loss, reduce the amount determined under paragraph 3(b) in respect of the taxpayer or be deductible in computing the taxpayer's taxable income for the year (except to the extent it has already been included under this paragraph for a previous year),

(ii) the agreement or arrangement is entered into as or in relation to a borrowing or other financing that the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer enters into, whether currently or in the future, and absolutely or contingently, and

(iii) the amount can reasonably be considered to be part of the cost of funding of the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer,

(e) a particular amount that

(i) is in respect of an agreement or arrangement that gives rise to, or can reasonably be expected to give rise to, an amount that

(A) is included in computing a taxpayer's interest and financing expenses for a taxation year under paragraph (d), or

(B) reduces the taxpayer's interest and financing expenses for a taxation year under element B,

(ii) would, in the absence of this section, be deductible by the taxpayer in computing its income for the year,

(iii) is not deductible under any of the provisions listed in paragraph (b), and

(iv) is an expense or fee payable under the agreement or arrangement or an expense that is incurred in contemplation of, in the course of entering into or in relation to, the agreement or arrangement;

(f) a lease financing amount (other than in respect of an excluded lease for the year) that would, in the absence of this section, be deductible by the taxpayer in computing its income for the year,

(g) in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the formula

C × D/E – F – G

where

C is an amount that is deductible by the partnership in computing its income or loss from the source, or the source in a particular place, for a fiscal period, and that would be described in any of paragraphs (a) to (f) if the references to the taxpayer were read as references to the partnership,

D is the taxpayer's share of the income or loss of the partnership from the source, or the source in a particular place, for the fiscal period,

E is the income or loss of the partnership from the source, or the source in a particular place, for the fiscal period,

F is the amount, if any, included in computing the taxpayer's income under paragraph 12(1)(l.1) in respect of the amount referred to in the description of C, and

G is the portion of an amount determined for C that can reasonably be considered to not be deductible in computing the taxpayer's income for the year, and to not be included in computing the taxpayer's non-capital loss for the year, because of subsection 96(2.1); and

(h) the portion of an amount deducted under paragraph 111(1)(e) for the year in respect of a partnership of which the taxpayer is a member that can reasonably be considered to be attributable to an amount referred to in the description of G in paragraph (g) in respect of a fiscal period of the partnership ending in another taxation year of the taxpayer; and

B is an amount received or receivable by the taxpayer in the year, or a gain of the taxpayer for the year, as the case may be, under or as a result of an agreement or arrangement described in subparagraph (d)(ii) in the description of A, to the extent that the amount

(a) is included in computing the taxpayer's income for the year, and

(b) can reasonably be considered to reduce the cost of funding of the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer. (*dépenses d'intérêts et de financement*)

interest and financing revenues of a taxpayer for a taxation year means the amount determined by the formula

A – B

where

A is the total of all amounts, each of which is

(a) an amount received or receivable as, on account of, in lieu of payment or in satisfaction of, interest (other than excluded interest or any amount described in any other paragraph in this definition) that is included in computing the taxpayer's income for the year,

(b) a fee or similar amount in respect of a guarantee by the taxpayer for the repayment of a debt obligation owing by another person or partnership that is included in computing the taxpayer's income for the year,

(c) an amount received or receivable by the taxpayer in the year, or a gain of the taxpayer for the year, as the case may be, under or as a result of an agreement or arrangement, if the following conditions are met:

(i) the amount is included in computing the taxpayer's income for the year,

(ii) the agreement or arrangement is entered into as or in relation to a loan made, or other financing provided, by the taxpayer, and

(iii) the amount can reasonably be considered to increase the taxpayer's return with respect to a debt obligation owing to the taxpayer;

(d) a lease financing amount (other than in respect of an excluded lease for the year) that is included in computing the taxpayer's income for the year,

(e) in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the following formula:

C × D/E

where

C is an amount that is included by the partnership in computing its income or loss from the source, or the source in a particular place, for a fiscal period and that would be described in paragraphs (a) to (d) if the references to the taxpayer were read as references to the partnership,

D is the taxpayer's share of the income or loss of the partnership from the source, or the source in a particular place, for the fiscal period, and

E is the income or loss of the partnership from the source, or the source in a particular place, for the fiscal period, and

B is an amount paid or payable by the taxpayer in the year, or a loss or a capital loss of the taxpayer for the year, as the case may be, under or as a result of an agreement or arrangement, to the extent that the amount

(a) either

(i) is deductible in computing the taxpayer's income for the year, or

(ii) in the case of a capital loss, reduces the amount determined under paragraph 3(b) in respect of the taxpayer or is deductible in computing the taxpayer's taxable income for the year (except to the extent it has already been taken into account in determining an amount under this paragraph for a previous year); and

(b) can reasonably be considered to reduce the taxpayer's return with respect to a debt obligation owing to the taxpayer. (*revenus d'intérêts et de financement*)

lease financing amount means an amount that is the portion of a particular payment in respect of a particular lease entered into by a taxpayer that would be considered to be on account of interest if

(a) the lessee had received a loan at the time the particular lease began and in a principal amount equal to the fair market value at that time of the property that is the subject of the particular lease;

(b) interest had been charged on the principal amount of the loan outstanding from time to time at the rate — determined in accordance with section 4302 of the *Income Tax Regulations* — in effect at the time described in paragraph (a), compounded semi-annually not in advance; and

(c) the particular payment was a blended payment of principal and interest, calculated in accordance with paragraph (b), on the loan applied firstly on account of interest on principal, secondly on account of interest on unpaid interest, and thirdly on account of principal. (*montant du crédit-bail*)

ratio of permissible expenses of a taxpayer for a taxation year means the percentage that is

(a) if the taxpayer's taxation year begins on or after January 1, 2023, and before January 1, 2024, 40%, other than for the purpose of determining the taxpayer's cumulative unused excess capacity for any taxation year that begins on or after January 1, 2024, and

(b) if the taxpayer's taxation year begins on or after January 1, 2024, and for the purposes referred to in paragraph (a) for which 40% is not the applicable percentage, 30%. (*ratio des dépenses admissibles*)

received capacity of a taxpayer that is a transferee for a taxation year, means an amount of received capacity of the taxpayer for the year under subsection (4). (*capacité reçue*)

relevant financial institution, in respect of a taxation year, means a taxpayer that at any time in the year is

(a) a bank;

(b) a credit union;

(c) an insurance corporation;

(d) is authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public;

(e) a registered securities dealer;

(f) described in paragraph (d) of the definition *financial institution* in subsection 181(1);

(g) referred to in subparagraph (g)(i) of the definition *financial institution* in subsection 181(1);

(h) described in paragraph (e) of the definition *restricted financial institution* in subsection 248(1);

(i) an investment corporation;

(j) a mortgage investment corporation;

(k) a mutual fund corporation;

(l) a deposit insurance corporation (as defined in subsection 137.1(5)); or

(m) a mutual fund trust. (*institution financière pertinente*)

taxpayer does not include a natural person or a partnership. (*contribuable*)

transaction includes an arrangement. (*opération*)

transferred capacity of a taxpayer that is a transferor for a taxation year, means an amount of transferred capacity of the taxpayer for the year under subsection (4). (*capacité transférée*)

Excessive interest and financing expenses limitation

(2) Notwithstanding any other provision of this Act, in computing the income for a taxation year of a taxpayer (other than an excluded entity for the year) from a business or property, no deduction shall be made in respect of any amount that is described in any of paragraphs (a) to (f) or (h) of the definition *interest and financing expenses* in subsection (1) that would, in the absence of this section, be deductible in computing that income to the extent of the proportion of that amount that is determined by the formula:

(A – (B + C + D + E))/A

where

A is the taxpayer's interest and financing expenses for the year,

B is

(a) if subsection 18.21(3) applies in respect of the taxpayer for the year, the amount determined in respect of the taxpayer for the year under that subsection; and

(b) in any other case, the amount determined by the formula

F × G

where

F is the taxpayer's ratio of permissible expenses for the year, and

G is the taxpayer's adjusted taxable income for the year,

C is the taxpayer's interest and financing revenues for the year,

D is the amount by which the total of all amounts each of which is an amount of received capacity of the taxpayer for the year, as determined under subsection (4), exceeds the total amount deductible under paragraph 111(1)(a.1) for the year, and

E is the amount of the taxpayer's absorbed capacity for the year.

Amount deemed deducted

(3) All or any portion, of a particular amount described in paragraph (c) of the definition *interest and financing expenses*, that would, in the absence of subsection (2), have been deducted in computing the income of a taxpayer for a taxation year but that is not deductible because of subsection (2), is deemed to have been deductible and to have been deducted in the year for purposes of determining, in respect of any taxpayer at any time, such of the following amounts to which the particular amount relates

(a) *total depreciation* allowed for property of a prescribed class, as defined in subsection 13(21);

(b) the amount the taxpayer may deduct under subsection 66(4);

(c) *cumulative Canadian exploration expense*, as defined in subsection 66.1(6);

(d) *cumulative Canadian development expense*, as defined in subsection 66.2(5);

(e) *cumulative foreign resource expense* in respect of a country, as defined in subsection 66.21(1);

(f) *cumulative Canadian oil and gas property expense*, as defined in subsection 66.4(5); or

(g) the amount the taxpayer may deduct under subsections 66.7(1), (2), (2.3), (3), (4) or (5).

Transfer of cumulative unused excess capacity

(4) For the purposes of this section, a corporation and another corporation (referred to in this section as the "transferor" and the "transferee", respectively) may jointly elect in prescribed form to designate an amount equal to all or a portion of the transferor's cumulative unused excess capacity, and that amount is an amount of transferred capacity of the transferor for a taxation year and an amount of received capacity of the transferee for a taxation year, if

(a) the taxation year of the transferor ends in the taxation year of the transferee;

(b) the transferor and the transferee

(i) are taxable Canadian corporations throughout their respective taxation years,

(ii) are eligible group corporations in respect of each other at the end of their respective taxation years, and

(iii) have the same tax reporting currency (within the meaning assigned by subsection 261(1)) throughout their respective years;

(c) the transferor is not a relevant financial institution;

(d) the election or amended election

(i) specifies the amount of the transferred capacity, and

(ii) is filed with the Minister

(A) on or before the later of the filing-due date of

(I) the transferor for its taxation year, and

(II) the transferee for its taxation year, or

(B) on or before the day that is 90 days after the day of sending of

(I) a notice of assessment of tax payable under this Part by the transferor or the transferee for their respective taxation years, or

(II) a notification that no tax is payable under this Part by the transferor or the transferee for their respective taxation years;

(e) the total of all amounts each of which would, if this subsection were read without reference to this paragraph, be an amount of transferred capacity of the transferor for its taxation year in respect of any transferee, does not exceed the transferor's cumulative unused excess capacity for the year;

(f) where the election is not an election to which subsection (8) applies, an amended election has not been filed in accordance with this section; and

(g) the transferee files an information return in accordance with subsection (5) for the calendar year in which the transferee's taxation year ends.

Summary – cumulative unused excess capacity transfers

(5) If one or more elections are filed under subsection (4), in which amounts are designated as received capacity of a particular transferee for a taxation year ending in a calendar year, the particular transferee shall file with the Minister for the calendar year an information return in prescribed form within six months after the end of the calendar year in respect of

(a) each such election; and

(b) each election filed under subsection (4) for a taxation year ending in the calendar year, by any other transferee that is an eligible group corporation in respect of the particular transferee at the end of the other transferee's taxation year.

Summary – filing by designated filer

(6) For the purposes of this section, if any taxpayer is required to file an information return for a calendar year under subsection (5), the taxpayer is deemed to have filed the information return if

(a) an information return under subsection (5) is filed for the calendar year by any other taxpayer (referred to in this subsection as the "designated filer" in respect of the taxpayer for the year) that is an eligible group corporation in respect of the taxpayer at the end of the taxpayer's taxation year ending in the calendar year; and

(b) the taxpayer jointly elects, with each other transferee described in paragraph (5)(b), to designate under this paragraph the designated filer to be a designated filer in respect of the taxpayer and each other transferee for the calendar year.

Assessment

(7) If an election or an amended election has been filed under subsection (4), the Minister shall, notwithstanding subsections 152(4) and (5), assess or reassess the tax, interest or penalties payable under this Act by any corporation for any relevant taxation year in order to take into account the election or amended election.

Eligible group corporations and entities

(8) If, at any time, a particular taxpayer becomes or ceases to be an eligible group corporation or eligible group entity in respect of another taxpayer and it may reasonably be considered, having regard to all the circumstances, that one of the main purposes of the particular taxpayer becoming or ceasing to be an eligible group corporation or eligible group entity in respect of the other taxpayer is to enable any taxpayer to obtain a tax benefit (within the meaning of subsection 245(1)), the particular taxpayer is deemed not to have become, or to remain, as the case may be, an eligible group corporation or eligible group entity, as the case may be, in respect of the other taxpayer at that time.

Benefits conferred

(9) For the purposes of this Part, if a transferor and a transferee file an election (including an amended election) under subsection (4), no benefit is considered to have been conferred on the transferee as a consequence of the election.

Consideration for election

(10) For the purposes of this Part, if property is acquired at any time by a transferor as consideration for filing an election or amended election with a transferee under subsection (4)

(a) where the property was owned by the transferee immediately before that time,

(i) the transferee is deemed to have disposed of the property at that time for proceeds equal to the fair market value of the property at that time, and

(ii) no amount may be deducted in computing the transferee's income as a consequence of the transfer of the property, except any amount arising as a consequence of subparagraph (i);

(b) the cost at which the property was acquired by the transferor at that time is deemed to be equal to the fair market value of the property at that time; and

(c) the transferor is not required to add an amount in computing income solely because of the acquisition at that time of the property.

Partnerships

(11) For the purposes of this section,

(a) a person or partnership that is (or is deemed by this paragraph to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership; and

(b) a person's share of the income or loss of a partnership includes the person's direct or indirect, through one or more other partnerships, share of that income or loss.

Exclusion from interest and financing revenues

(12) No amount received or receivable by a taxpayer in a particular taxation year from a person or partnership with whom the taxpayer does not deal at arm's length is included in computing the interest and financing revenues of the taxpayer for the particular year, except to the extent that it is included in computing the interest and financing expenses, for a taxation year in which the amount was paid or payable, of a taxable Canadian corporation or a trust that is resident in Canada and that is subject to tax under this Part.

Anti-avoidance – interest and financing expenses

(13) Any amount that would, in the absence of this subsection, not be included in the interest and financing expenses of a taxpayer for a taxation year must be so included, if

(a) the amount arises in the course of a transaction or event or series of transactions or events; and

(b) it can reasonably be considered that one of the purposes of the transaction or event or series is to cause the amount not to be included in the interest and financing expenses of the taxpayer for the year.

Anti-avoidance – interest and financing revenues

(14) Any amount that would, in the absence of this subsection, be included in the interest and financing revenues of a taxpayer for a taxation year must not be so included, if

(a) the amount arises in the course of a transaction or event or series of transactions or events; and

(b) it can reasonably be considered that one of the purposes of the transaction or event or series that gave rise to the amount is to increase the taxpayer's interest and financing revenues for the year, in order to obtain a tax benefit (within the meaning of subsection 245(1)) for any taxpayer.

Anti-avoidance — excluded entity

(15) For the purposes of subparagraph (c)(iv) of the definition *excluded entity*, a person or partnership is deemed to be a tax-indifferent investor in respect of a taxpayer throughout a taxation year of the taxpayer if

(a) any portion of the interest and financing expenses of the taxpayer for the year is paid or payable by the taxpayer to the person or partnership as part of a transaction or event or series of transactions or events; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series is to avoid that portion of the interest and financing expenses being paid or payable to a tax-indifferent investor.

Deemed eligible group entities

(16) If two taxpayers are eligible group entities in respect of a third taxpayer, they are deemed to be eligible group entities in respect of each other.

Group ratio — definitions

18.21 (1) The following definitions apply in this section.

acceptable accounting standards means International Financial Reporting Standards and generally accepted accounting principles in

(a) Canada;

(b) Australia;

(c) the People's Republic of China;

(d) Hong Kong;

(e) the Republic of India;

(f) Japan;

(g) the Republic of Korea;

(h) New Zealand;

(i) Singapore; and

(j) the United States. (*principes comptables acceptables*)

consolidated financial statements means financial statements prepared in accordance with a relevant acceptable accounting standard in which the assets, liabilities, income, expenses and cash flows of two or more entities are presented as those of a single economic entity and, for greater certainty, the financial statements include the notes to the financial statements. (*états financiers consolidés*)

consolidated group means two or more entities (each referred to in this section as a "member of the consolidated group"), including an ultimate parent, in respect of which consolidated financial statements are required to be prepared for financial reporting purposes or that would be so required if the entities were subject to International Financial Reporting Standards. For these purposes, an equity-accounted entity is not considered to be a member of the consolidated group. (*groupe consolidé*)

equity-accounted entity means an entity the net income or loss of which is included in the consolidated financial statements of a consolidated group under the equity method of accounting. (*entité comptabilisée à la valeur de consolidation*)

equity interest means any of the following:

(a) a share of the capital stock of a corporation;

(b) an interest as a beneficiary under a trust; and

(c) an interest as a member of a partnership. (*participation au capital*)

group adjusted net book income, of a consolidated group for a relevant period, means the amount determined by the formula

$$\mathbf{A - B}$$

where

A is the amount determined by the formula

$$\mathbf{C + D + E + F + G}$$

where

C is the amount, if any, of net income reported in the consolidated financial statements of the group for the period,

D is the amount, if any, of income tax expense reported in those statements,

E is the amount that would be the specified interest expense of the group for the period if the definition *specified interest expense* were read without reference to paragraph (b) of the description of A,

F is the total of all amounts used in determining the amounts reported in those statements each of which is the amount of

(a) a depreciation or amortization expense in respect of an asset,

(b) a charge in respect of the impairment or write-off of an asset referred to in paragraph (a),

(c) a loss on the disposal of an asset referred to in paragraph (a), and

(d) an expense, charge, deduction or loss that is similar to any of those referred to in paragraphs (a) to (c), and

G is the total of all amounts referred to in the description of D or F that are included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that net income or loss, and

B is the amount determined by the formula

H + I + J + K + L

where

H is the amount, if any, of net loss reported in those statements,

I is the amount, if any, of income tax recoverable reported in those statements,

J is the specified interest income of the group for the period,

K is the total of all amounts used in determining the amounts reported in those statements each of which is the amount of a gain on the disposal of an asset referred to in paragraph (a) of the description of F, to the extent that the sale proceeds do not exceed the original cost of the asset, and

L is the total of all amounts referred to in the description of I or K that is included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that net income or loss. (*bénéfice net comptable rajusté du groupe*)

group net interest expense, of a consolidated group for a relevant period, means the amount determined by the formula

A – B

where

A is the amount determined by the formula

C – D

where

C is the specified interest expense of the group for the period, and

D is the specified interest income of the group for the period, and

B is the total of all amounts each of which is an amount determined, in respect of a specified non-member of the group, by the formula

E – F

where

E is the portion of the amount of the specified interest expense of the group for the period that is paid or payable to the specified non-member, and

F is the portion of the amount of the specified interest income of the group for the period that is received or receivable from the specified non-member. (*dépenses nettes d'intérêts du groupe*)

group ratio, of a consolidated group for a relevant period, means

(a) except where any of paragraphs (b) to (d) applies, the percentage determined by the formula

A/B

where

A is the group net interest expense of the consolidated group for the relevant period, and

B is the group adjusted net book income of the consolidated group for the relevant period;

(b) if the percentage determined by the formula in paragraph (a) is greater than 40% but less than or equal to 60%, the percentage determined by the formula

40% + 50% × (A – 40%)

where

A is the percentage determined by the formula in paragraph (a);

(c) if the percentage determined by the formula in paragraph (a) is greater than 60%, the lesser of 100% and the percentage determined by the formula

50% + 25% × (A – 60%)

where

A is the percentage determined by the formula in paragraph (a); and

(d) if the group adjusted net book income of the consolidated group for the relevant period is nil, nil. (*ratio de groupe*)

relevant period means a period in respect of which the consolidated financial statements of a consolidated group are presented. (*période pertinente*)

specified interest expense, of a consolidated group for a relevant period, means the amount determined by the formula

A – B

where

A is the total of all amounts, each of which is

(a) an amount of interest expense used in determining the amounts reported in the consolidated financial statements of the consolidated group for the relevant period;

(b) an amount of capitalized interest used in determining the amounts reported in those statements;

(c) the amount of a guarantee fee, standby charge, arrangement fee or similar fee paid or payable that is used in determining the amounts reported in those statements and that is not included in paragraph (a) or (b); or

(d) an amount referred to in any of paragraphs (a) to (c) that is included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that net income or loss, and

B is the total of all amounts each of which is the amount of a dividend included in the determination of an amount referred to in any of paragraphs (a) to (d) of the description of A. (*dépenses d'intérêts déterminées*)

specified interest income, of a consolidated group for a relevant period, means the amount determined by the formula

A – B

where

A is the total of all amounts, each of which is

(a) an amount of interest income used in determining the amounts reported in the consolidated financial statements of the consolidated group for the relevant period;

(b) the amount of a guarantee fee, standby charge, arrangement fee or similar fee received or receivable that is used in determining the amounts reported in those statements and that is not included in paragraph (a); or

(c) an amount referred to in paragraph (a) or (b) that is included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that income or loss, and

B is the total of all amounts each of which is the amount of a dividend included in the determination of an amount referred to in any of paragraphs (a) to (c) of the description of A. (*revenus d'intérêts déterminés*)

specified non-member, of a consolidated group for a relevant period, means a particular person or partnership that is not a member of the consolidated group that, at any time in the period,

(a) does not deal at arm's length with a member of the group;

(b) alone or together with persons or partnerships with whom the particular person or partnership does not deal at arm's length owns, or has the right to acquire, one or more equity interests in a member of the group that

(i) provides 25% or more of the votes that could be cast at an annual meeting of the shareholders of the member, if the member is a corporation, or

(ii) has 25% or more of the fair market value of all equity interests in the member; or

(c) is a person or partnership in respect of which a member of the group – alone or together with persons or partnerships with whom the member does not deal at arm's length – owns, or has the right to acquire, one or more equity interests in the particular person or partnership that

(i) provides 25% or more of the votes that could be cast at an annual meeting of the shareholders of the particular person, if the particular person is a corporation, or

(ii) has 25% or more of the fair market value of all equity interests in the particular person or partnership. (*non-membre déterminé*)

ultimate parent means a particular entity if

(a) it holds directly or indirectly an interest in one or more other entities in respect of which it is required to prepare consolidated financial statements for financial reporting purposes, or would be so required if it was subject to International Financial Reporting Standards; and

(b) no other entity holds, directly or indirectly, in that particular entity an interest that is described in paragraph (a). (*mère ultime*)

Conditions for subsection (3)

(2) Subsection (3) applies in respect of a taxation year of a taxpayer and of each corporation or trust that is, throughout the year, an eligible group entity in respect of the taxpayer and a member of the same consolidated group as the taxpayer (the taxpayer and each such corporation or trust each being referred to in this subsection and subsection (3) as a "Canadian group member"), if

(a) each Canadian group member

(i) is, throughout the year, either a taxable Canadian corporation or a trust resident in Canada,

(ii) has a taxation year that is the same period as the relevant period of the ultimate parent of that consolidated group, and

(iii) has the same tax reporting currency (within the meaning assigned by subsection 261(1)) throughout their respective taxation years;

(b) no Canadian group member is a relevant financial institution;

(c) the consolidated financial statements of the consolidated group for the year are audited; and

(d) the Canadian group members

(i) jointly elect in prescribed form and manner in respect of the year,

(ii) file the election on or before the earliest filing due-date of a Canadian group member for the year, and

(iii) allocate, in that election, an amount to each Canadian group member for the purposes of subsection (3).

Allocated group ratio amount

(3) If this subsection applies in respect of each Canadian group member for a taxation year, the amount determined under this subsection in respect of each such member is the amount allocated to the member for the year under the election referred to in paragraph (2)(d). However, the amounts determined under this subsection shall be nil if the total of all amounts so allocated to a member exceeds the least of

(a) unless the group ratio of the consolidated group for the relevant period is nil, the total of all amounts in respect of a member each of which is determined by the formula

$$A \times B$$

where

A is the group ratio of the consolidated group for the relevant period, and

B is the adjusted taxable income of the member for the year;

(b) the group net interest expense of the consolidated group in respect of the year; and

(c) the total of all amounts each of which would, in the absence of section 257, be the adjusted taxable income of a member for the year.

Use of accounting terms

(4) For the purposes of the definitions *consolidated financial statements*, *consolidated group*, *equity-accounted entity*, *group adjusted net book income*, *specified interest expense*, *specified interest income* and *ultimate parent* in subsection (1),

(a) subject to paragraph (b), any term not otherwise defined shall have its meaning for financial reporting purposes under the relevant acceptable accounting standards; and

(b) the term "dividend" as used in the definitions *specified interest expense* and *specified interest income* in subsection (1) shall have its meaning otherwise applicable for the purposes of this Act.

Single member group

(5) For the purposes of this section, if a taxpayer is not a member of a consolidated group for a relevant period,

(a) the taxpayer is deemed to be an eligible group entity in respect of itself;

(b) the taxpayer is deemed to be

(i) a member of a consolidated group that comprises only itself, and

(ii) the ultimate parent of the group; and

(c) the taxpayer's financial statements are deemed to be consolidated financial statements.

Anti-avoidance

(6) A particular person or partnership that is not a member of a consolidated group for a relevant period is deemed to be a specified non-member in respect of the group for the period if a portion of the amount of the specified interest expense of the group is paid or payable by a member of the group to the particular person or partnership as part of a transaction or event or series of transactions or events where it can reasonably be considered that one of the purposes of the transaction, event or series is to avoid the inclusion of that portion in the determination of the amount for E in the definition *group net interest expense* in subsection (1).

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after January 1, 2023 except that

(a) subsection (1) also applies in respect of a taxation year of a taxpayer that begins before January 1, 2023 and ends after that day, if

(i) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series, and

(ii) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection (1) to the taxpayer or to increase an amount of excess capacity of any taxpayer determined under paragraphs (c) and (d);

(b) the definition *ratio of permissible expenses* in subsection 18.2(1) of the Act is to be read without reference to its paragraph (a) in respect of a taxpayer if

(i) any taxation year of the taxpayer that begins on or after January 1, 2023 but before January 1, 2024 is, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series, and

(ii) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of paragraph (b) of that definition to the taxpayer,

(c) for the purpose of determining a taxpayer's cumulative unused excess capacity for a particular taxation year, the taxpayer's excess capacity, for each of the three taxation years (in this paragraph and paragraph (d), each referred to as a "pre-regime year") immediately preceding the first taxation year of the taxpayer in respect of which subsection (1) applies (referred to in this paragraph as the "first regime year" of the taxpayer), is deemed to be nil, unless

(i) the taxpayer and each corporation that is an eligible group corporation in respect of the taxpayer at the end of the first regime year jointly elect in prescribed form to have paragraph (d) apply in respect of the taxpayer,

(ii) the election is filed with the Minister on or before the taxpayer's filing-due date for its first regime year, and

(iii) in the election the taxpayer and the eligible group corporations allocate to the taxpayer or eligible group corporations in respect of the taxpayer, for the purpose of determining the taxpayer's cumulative unused excess capacity for the particular taxation year and any other taxation year in which the taxpayer's ratio of permissible expenses is the same as in the particular year, one or more portions of the group net excess capacity (within the meaning of subparagraph (d)(vi)) for the pre-regime years that is determined for that purpose, and

(d) if the conditions in subparagraphs (c)(i) to (iii) are satisfied, for the purpose of determining the taxpayer's cumulative unused excess capacity for a particular taxation year and any other taxation year in which the taxpayer's ratio of permissible expenses is the same as in the particular year, the taxpayer's excess capacity for a pre-regime year (other than for the purposes of this paragraph) is determined in accordance with the following rules:

(i) for the purposes of this paragraph, the determination of whether a corporation is an eligible group corporation in respect of the taxpayer is to be made at the end of the taxpayer's first regime year,

(ii) the "excess interest", of the taxpayer or an eligible group corporation in respect of the taxpayer, for a pre-regime year means the amount that would be determined for the pre-regime year under paragraph (b) of the definition *absorbed capacity*,

(iii) the "excess capacity otherwise determined" means the amount that would be the excess capacity of the taxpayer or an eligible group corporation in respect of the taxpayer for a pre-regime year, if that amount were determined under the definition *excess capacity* in subsection 18.2(1),

(iv) for the purposes of this paragraph, if the taxpayer or a corporation that is an eligible group corporation in respect of the taxpayer was subject to a loss restriction event at the beginning of any of its pre-regime years, its excess capacity otherwise determined and excess interest for any pre-regime year that precedes that year are deemed to be nil,

(v) the "net excess capacity" of a taxpayer for its pre-regime years means the amount, if any, by which the total of all amounts each of which is the excess capacity otherwise determined of the taxpayer for a pre-regime year exceeds the total of all amounts each of which is the excess interest of the taxpayer for a pre-regime year,

(vi) the "group net excess capacity" for the pre-regime years means the amount, if any, by which the total of all amounts each of which is the excess capacity otherwise determined of the taxpayer or an eligible group corporation in respect of the taxpayer (other than a taxpayer or eligible group corporation that is a relevant financial institution at any time in the pre-regime years) for a pre-regime year exceeds the total of all amounts each of which is the excess interest of the taxpayer or an eligible group corporation for a pre-regime year,

(vii) for the purposes of determining the excess capacity otherwise determined or the excess interest of the taxpayer or an eligible group corporation for a pre-regime year, the net excess capacity of the taxpayer or an eligible group corporation for its pre-regime years and the group net excess capacity for pre-regimes years,

(A) the ratio of permissible expenses is the same as the taxpayer's ratio of permissible expenses for the particular year, and

(B) if it is the case that, in respect of a pre-regime year, the conditions in subsection 18.21(2) of the Act would be met in respect of the taxpayer and each eligible group corporation that is a member of the same consolidated group in respect of the year – if the reference in that subsection to the "filing–due date of a Canadian group member for the year" were read as a reference to "the earliest filing-due date of any Canadian group member for its first regime year" – then subsection 18.21(3) of the Act applies in respect of the taxpayer and each such eligible group corporation for the pre-regime year;

(viii) the taxpayer's excess capacity for a pre-regime year is deemed to be

(A) if the taxpayer's net excess capacity for its pre-regime years is not a positive amount, nil, and

(B) in any other case, the lesser of

(I) the taxpayer's excess capacity otherwise determined for the pre-regime year, and

(II) the portion, if any, of the group net excess capacity allocated to the taxpayer for the year in the joint election under paragraph (c), and

(ix) notwithstanding subparagraph (viii), the taxpayer's excess capacity for each pre-regime year is deemed to be nil if

(A) the total of all amounts each of which is a portion of the group net excess capacity that is allocated to the taxpayer or an eligible group corporation in respect of the taxpayer for a pre-regime year in the joint election under paragraph (c) is greater than the group net excess capacity, or

(B) the total of all amounts each of which is a portion of the group net excess capacity that is allocated to the taxpayer for a pre-regime year under the joint election is greater than the taxpayer's net excess capacity for its pre-regime years.

59 (1) Paragraphs 87(2.1)(a) and (b) of the Act are replaced by the following:

(a) determining the new corporation's non-capital loss, net capital loss, restricted farm loss, farm loss, limited partnership loss or restricted interest and financing expense, as the case may be, for any taxation year,

(a.1) determining, for any taxation year, the new corporation's

(i) absorbed capacity, excess capacity and transferred capacity in determining its cumulative unused excess capacity for a taxation year, and

(ii) interest and financing expenses and interest and financing revenues in determining an amount under paragraph (g) in the description of B of the definition *adjusted taxable income* in subsection 18.2(1), and

(b) determining the extent to which subsections 111(3) to (5.4) and paragraph 149(10)(c) apply to restrict the deductibility by the new corporation of any non-capital loss, net capital loss, restricted farm loss, farm loss, limited partnership loss or restricted interest and financing expense, as the case may be,

(2) Paragraph 87(2.1)(d) of the Act is replaced by the following:

(d) the income of the new corporation (other than as a result of an amount of interest and financing expenses being deductible by the new corporation because of paragraph (a.1)) or any of its predecessors, or

(3) Subsections (1) and (2) apply in respect of amalgamations that occur on or after January 1, 2023.

60 (1) The portion of subsection 88(1.1) before paragraph (a) is replaced by the following:

Non-capital losses, etc., of subsidiary

(1.1) Where a Canadian corporation (in this subsection and subsection (1.11) referred to as the "subsidiary") has been wound up and not less than 90% of the issued shares of each class of the capital stock of the subsidiary were, immediately before the winding-up, owned by another Canadian corporation (in this subsection and subsection (1.11) referred to as the "parent") and all the shares of the subsidiary that were not owned by the parent immediately before the winding-up were owned at that time by a person or persons with whom the parent was dealing at arm's length, for the purpose of computing the taxable income of the parent under this Part and the tax payable under Part IV by the parent for any taxation year commencing after the commencement of the winding-up, such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary as may reasonably be regarded as its loss from carrying on a particular business (in this subsection referred to as the "subsidiary's loss business") and any other portion of any non-capital loss or limited partnership loss of the subsidiary as may reasonably be regarded as being derived from any other source or being in respect of a claim made under section 110.5 for any particular taxation year of the subsidiary (in this subsection referred to as the "subsidiary's loss year"), and the portion of the restricted interest and financing expense of the subsidiary for any particular taxation year of the subsidiary (in this subsection referred to as the "subsidiary's expense year") that may reasonably be regarded as an expense or loss incurred by the subsidiary in the course of carrying on a particular business (in this subsection referred to as the "subsidiary's expense business") and any other portion of the restricted interest and financing expense of the subsidiary that may reasonably be regarded as being incurred in respect of any other source, to the extent that it

(2) The portion of subsection 88(1.1) that follows paragraph (b) and precedes paragraph (c) is replaced by the following:

shall, for the purposes of this subsection, paragraphs 111(1)(a), (a.1), (c), (d) and (e), subsection 111(3) and Part IV,

(3) Subsection 88(1.1) is amended by deleting the "and" after paragraph (d) and by adding the following after paragraph (d.1):

(d.2) in the case of the portion of any restricted interest and financing expense of the subsidiary that may reasonably be regarded as being incurred in carrying on the subsidiary's expense business, be deemed, for the taxation year of the parent in which the subsidiary's expense year ended, to be a restricted interest and financing expense of the parent from carrying on the subsidiary's expense business that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up, and

(d.3) in the case of any other portion of any restricted interest and financing expense of the subsidiary that may reasonably be regarded as being incurred in respect of any other source, be deemed, for the taxation year of the parent in which the subsidiary's expense year ended, to be a restricted interest and financing expense of the parent that was incurred in respect of that other source and that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up,

(4) The portion of paragraph 88(1.1)(e) before subparagraph (i) is replaced by the following:

(e) if control of the parent has been acquired by a person or group of persons at any time after the commencement of the winding-up, or control of the subsidiary has been acquired by a person or group of persons at any time whatever, no amount in respect of the subsidiary's non-capital loss, farm loss or restricted interest and financing expense for a taxation year ending before that time is deductible in computing the taxable income of the parent for a particular taxation year ending after that time, except that such portion of the subsidiary's non-capital loss or farm loss as may reasonably be regarded as its loss from carrying on a business, or restricted interest and financing expense as may reasonably be regarded as being the subsidiary's expense or loss incurred in the course of carrying on a business and, where a business was carried on by the subsidiary in that year, such portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing its taxable income for the year, is deductible only

(5) The portion of paragraph 88(1.1)(e) after subparagraph (ii) is replaced by the following:

and for the purpose of this paragraph, where this subsection applied to the winding-up of another corporation in respect of which the subsidiary was the parent and this paragraph applied in respect of losses and restricted interest and financing expenses of that other corporation, the subsidiary shall be deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses and restricted interest and financing expenses,

(6) Subsection 88(1.1) is amended by adding "and" at the end of paragraph (f) and the following after paragraph (f):

(g) any portion of a restricted interest and financing expense of the subsidiary that would otherwise be deemed by paragraph (d.2) or (d.3) to be a restricted interest and financing expense of the parent for a particular taxation year beginning after the commencement of the winding-up shall be deemed, for the purpose of computing the parent's taxable income for taxation years beginning after the commencement of the winding-up, to be a restricted interest and financing expense of the parent for its immediately preceding taxation year and not for the particular year, where the parent so elects in its return of income under this Part for the particular year.

(7) Section 88 of the Act is amended by adding the following after subsection (1.1):

Cumulative unused excess capacity of subsidiary

(1.11) If a subsidiary has been wound up in the circumstances described in subsection (1.1), the absorbed capacity, the excess capacity and any transferred capacity, of the subsidiary for any particular taxation year are – for the purpose of computing the cumulative unused excess capacity of the parent for any taxation year of the parent that commenced after the commencement of the winding up – deemed to be an amount of absorbed capacity, an amount of excess capacity and an amount of transferred capacity, respectively, of the parent for the taxation year of the parent in which the subsidiary's particular taxation year ended.

(8) Subsections (1) to (7) apply in respect of windings-up that begin on or after January 1, 2023.

61 (1) The portion of subsection 94.2(2) of the Act before paragraph (a) is replaced by the following:

(2) If this subsection applies at any time to a beneficiary under, or a particular person in respect of, a trust, then for the purposes of applying this section, subsections 91(1) to (4), paragraph 94.1(1)(a) and sections 95 and 233.4 to the beneficiary under, and, if applicable, to the particular person in respect of, the trust and for the purposes of subparagraph (c)(ii) of the definition *excluded entity* in subsection 18.2(1)

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after January 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before January 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection 56(1) or 58(1) to the taxpayer.

62 (1) Subsection 111(1) of the Act is amended by adding the following after paragraph (a):

Restricted interest and financing expenses

(a.1) restricted interest and financing expenses for the 20 taxation years immediately preceding the year, but no amount is deductible for the year in respect of restricted interest and financing expenses except to the extent of the amount determined by the following formula:

A + B

where

A is the amount that would be the taxpayer's excess capacity for the year if the amount determined for C in that definition were nil, and

B is the total of all amounts, each of which is an amount of *received capacity* (as defined in subsection 18.2(1)) of the taxpayer for the year;

(2) The portion of subsection 111(3) of the Act before subparagraph (i.1) is replaced by the following:

Limitation on deductibility

(3) For the purposes of subsection (1),

(a) an amount in respect of a non-capital loss, restricted interest and financing expense, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year is deductible, and an amount in respect of a net capital loss for a taxation year may be claimed, in computing the taxable income of a taxpayer for a particular taxation year only to the extent that it exceeds the total of

(i) amounts deducted under this section in respect of that non-capital loss, restricted interest and financing expense, restricted farm loss, farm loss or limited partnership loss in computing taxable income (or, in the case of a restricted interest and financing expense, in computing a non-capital loss) for taxation years preceding the particular taxation year,

(3) The portion of paragraph 111(3)(b) of the Act before subparagraph (ii) is replaced by the following:

(b) no amount is deductible in respect of a non-capital loss, restricted interest and financing expense, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year until

(i) in the case of a non-capital loss, the deductible non-capital losses,

(i.1) in the case of a restricted interest and financing expense, the restricted interest and financing expenses,

(4) The portion of paragraph 111(5)(a) of the Act before subparagraph (i) is replaced by the following:

Loss restriction event — certain losses and expenses

(5) If at any time a taxpayer is subject to a loss restriction event,

(a) no amount in respect of the taxpayer's non-capital loss, restricted interest and financing expense or farm loss for a taxation year that ended before that time is deductible by the taxpayer for a taxation year that ends after that time, except that the portion of the taxpayer's non-capital loss, restricted interest and financing expense or farm loss, as the case may be, for a taxation year that ended before that time as may reasonably be regarded as the taxpayer's loss from carrying on a business or the taxpayer's expense or loss incurred in the course of carrying on a business, as the case may be, and, if a business was carried on by the taxpayer in that year, the portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing the taxpayer's taxable income for that year is deductible by the taxpayer for a particular taxation year that ends after that time

(5) The Act is amended by adding the following after subsection 111(5):

Loss restriction event – cumulative unused excess capacity

(5.01) If at any time a particular taxpayer is subject to a loss restriction event, the cumulative unused excess capacity of any taxpayer for any taxation year that ends after that time shall be determined without regard to any absorbed capacity, excess capacity or transferred capacity of the particular taxpayer for any taxation year that ended before that time.

(6) The definition *non-capital loss* in subsection 111(8) is amended by replacing paragraph (b) of the description of E with the following:

(b) an amount deducted under paragraph (1)(a.1) or (b) or section 110.6, or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (k), section 112 and subsections 113(1) and 138(6), in computing the taxpayer's taxable income for the year, or

(7) Subsection 111(8) of the Act is amended by adding the following in alphabetical order:

restricted interest and financing expense of a taxpayer for a taxation year means the amount determined by the formula

A + B

where

A is the total of all amounts each of which is the portion of an amount that is not deductible in computing the income for the taxation year of the taxpayer from a business or property because of subsection 18.2(2), and

B is the amount determined under paragraph 12(1)(l.2) in respect of the taxpayer for the taxation year; (*dépense d'intérêts et de financement restreinte*)

(8) The portion of subsection 111(9) of the Act before paragraph (a) is replaced by the following:

Exception

(9) In this section, a taxpayer's non-capital loss, restricted interest and financing expense, net capital loss, restricted farm loss, farm loss and limited partnership loss for a taxation year during which the taxpayer was not resident in Canada shall be determined as if

(9) Subsections (1) to (8) apply in respect of taxation years of a taxpayer that begin on or after January 1, 2023. However, subsections (1) to (8) also apply in respect of a taxation year of a taxpayer that begins before January 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection 56(1) or 58(1) to the taxpayer.

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

absorbed capacity has the same meaning as in subsection 18.2(1); (*capacité absorbée*)

cumulative unused excess capacity has the same meaning as in subsection 18.2(1); (*capacité excédentaire cumulative inutilisée*)

excess capacity has the same meaning as in subsection 18.2(1); (*capacité excédentaire*)

interest and financing expenses has the same meaning as in subsection 18.2(1), except for the purposes of the definition *economic profit* in subsection 126(7); (*dépenses d'intérêts et de financement*)

interest and financing revenues has the same meaning as in subsection 18.2(1); (*revenus d'intérêts et de financement*)

restricted interest and financing expense has the same meaning as in subsection 111(8); (*dépense d'intérêts et de financement restreinte*)

transferred capacity has the same meaning as in subsection 18.2(1); (*capacité transférée*)

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after January 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before January 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection 56(1) or 58(1) to the taxpayer.

64 (1) The definition *specified provision* in subsection 256.1(1) of the Act is replaced by the following:

specified provision means any of subsections 10(10) and 13(24), paragraph 37(1)(h), subsections 66(11.4) and (11.5), 66.7(10) and (11), 69(11) and 111(4), (5), (5.01), (5.1) and (5.3), paragraphs (j) and (k) of the definition *investment tax credit* in subsection 127(9), subsections 181.1(7) and 190.1(6) and any provision of similar effect. (*dispositions déterminées*)

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after January 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before January 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons for the transaction, event or series was to defer the application of subsection 56(1) or 58(1) to the taxpayer.