

Legislative Proposals Relating to the Global Minimum Tax Act

Enactment of Act

Part 1 — Global Minimum Tax Act

1 The *Global Minimum Tax Act*, the text of which is as follows, is enacted:

An Act in Respect of a Global Minimum Tax

Short Title

Short title

1 This Act may be cited as the *Global Minimum Tax Act*.

His Majesty

2 This Act is binding on His Majesty in right of Canada or a province.

PART I

Interpretation and Rules of Application

Interpretation

3 (1) This Part, Parts II and III and relevant provisions of Part VI implement the GloBE model rules, the GloBE commentary and the administrative guidance in respect of the GloBE model rules approved by the Inclusive Framework and published by the OECD from time to time and, unless the context otherwise requires, these Parts are to be interpreted consistently with those sources, as amended from time to time.

Designation of additional interpretive guidance

(2) The Governor in Council may from time to time by regulation designate any additional sources in respect of which the interpretation of this Act should be consistent.

General application

(3) Unless otherwise indicated, the provisions in this Act apply for purposes of this Act.

Definitions

4 (1) The following definitions apply in this Act.

acceptable financial accounting standard means

(a) Canadian generally accepted accounting principles (GAAP);

(b) IFRS; and

(c) the generally accepted accounting principles of

(i) Australia,

(ii) Brazil,

- (iii) Member states of the European Union,
- (iv) Member states of the European Economic Area,
- (v) Hong Kong (China),
- (vi) Japan,
- (vii) Mexico,
- (viii) New Zealand,
- (ix) the People's Republic of China,
- (x) the Republic of India,
- (xi) the Republic of Korea,
- (xii) Singapore,
- (xiii) Switzerland,
- (xiv) the United Kingdom, and
- (xv) the United States of America. (*norme de comptabilité financière admissible*)

adjusted covered taxes, of a constituent entity of an MNE group for a fiscal year, has the meaning assigned in subsection 22(1). (*impôts concernés ajustés*)

adjustment year means a fiscal year in respect of which an adjustment is made to the GloBE income or loss or adjusted covered taxes, for the fiscal year, of a constituent entity of an MNE group or the jurisdictional adjusted covered taxes of an MNE group because of the application of an ETR adjustment provision. (*année d'ajustement*)

aggregate asset gain, in respect of an election under subsection 18(21), means the net gain in a fiscal year from the disposition of local tangible assets by all constituent entities of an MNE group located in a jurisdiction, excluding any gain or loss on a transfer of assets between group entities. (*profit cumulé sur cession d'actifs*)

aggregate asset loss, in respect of an election under subsection 18(21), means the net loss in a fiscal year from the disposition of local tangible assets by all constituent entities of an MNE group located in a jurisdiction, excluding any gain or loss on a transfer of assets between group entities. (*perte cumulée sur cession d'actifs*)

allocable share has the meaning assigned in subsection 15(2). (*part à répartir*)

allocated adjustment top-up amount has the meaning assigned in subsection 30(5). (*montant complémentaire d'ajustement attribué*)

ancillary international shipping activity has the meaning assigned in subsection 19(11). (*activité de transport maritime internationale accessoire*)

ancillary international shipping costs has the meaning assigned in subsection 19(10). (*coûts relatifs au transport maritime internationale accessoires*)

ancillary international shipping income has the meaning assigned in subsection 19(8). (*revenu de transport maritime internationale accessoire*)

ancillary international shipping revenue has the meaning assigned in subsection 19(9). (*recettes de transport maritime internationale accessoire*)

authorized financial accounting standard, in respect of an entity, means a set of generally acceptable accounting principles permitted by the body responsible for prescribing, establishing or accepting accounting standards for financial reporting purposes in the jurisdiction where the entity is located. (*norme de comptabilité financière agréée*)

blended controlled foreign company tax regime, of a particular jurisdiction, means a controlled foreign company tax regime under which

(a) the tax liability of an owner located in the particular jurisdiction is determined by reference to an aggregate of the income, losses and creditable taxes of other entities, located in one or more jurisdictions other than the particular jurisdiction, in which the owner holds an ownership interest;

(b) the lowest rate that, if it were the corporate tax rate applicable in the one or more jurisdictions in which the other entities are located, would result in the tax charge in those jurisdictions being sufficient to prevent a tax charge on the owner under the controlled foreign company tax regime in respect of the other entities for a fiscal year, is less than the minimum rate; and

(c) income of entities located in the particular jurisdiction is not taken into account. (*régime fiscal intégré des sociétés étrangères contrôlées*)

consolidated financial statements, of an entity, means

(a) if the entity is not the ultimate parent entity of a group described in paragraph 10(2)(b), the financial statements prepared by the entity in accordance with an acceptable financial accounting standard, in which the assets, liabilities, income, expenses and cash flows of that entity and the entities in which it has a controlling interest are presented as those of a single economic unit;

(b) if the entity is the ultimate parent entity of a group described in paragraph 10(2)(b), the financial statements of the entity that are prepared in accordance with an acceptable financial accounting standard;

(c) if the entity has financial statements that would be described in paragraph (a) or (b) except that they are not prepared in accordance with an acceptable financial accounting standard, those financial statements, adjusted to prevent any material competitive distortions; and

(d) if the entity does not prepare financial statements described in any of paragraphs (a) to (c), the financial statements — in which the assets, liabilities, income, expenses and cash flows of that entity and the entities (other than entities that are not required or permitted to be consolidated) in which it has a controlling interest are presented as those of a single economic unit — that would have been prepared in accordance with an authorized financial accounting standard that is

(i) an acceptable financial accounting standard, or

(ii) a financial accounting standard that is adjusted to prevent any material competitive distortions. (*états financiers consolidés*)

constituent entity has the meaning assigned in subsection 11(1). (*entité constitutive*)

constituent entity-owner means a constituent entity that directly or indirectly holds an ownership interest in another constituent entity of the same MNE group. (*entité détentrice de titres d'une entité constitutive*)

controlled foreign company tax regime, of a particular jurisdiction, means a set of tax rules (other than an IIR) under which an entity (referred to in this definition as the “owner”) located in the particular jurisdiction, that holds an ownership interest in another entity (referred to in this definition as the “controlled foreign company”) that is located in a jurisdiction other than the particular jurisdiction, is subject to current taxation on its share of all or part of the income earned by the controlled foreign company, irrespective of whether that income is distributed on a current basis to the owner. (*régime fiscal des sociétés étrangères contrôlées*)

controlling interest means

(a) an ownership interest in an entity such that the interest holder

(i) is required to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis in accordance with an acceptable financial accounting standard, or

(ii) would have been required to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis, if the interest holder had prepared consolidated financial statements; or

(b) the relationship a main entity has to its permanent establishment. (*participation conférant le contrôle*)

cooperative means an entity that

(a) collectively markets or acquires goods or services on behalf of its members; and

(b) is subject to a tax regime in the jurisdiction in which it is located that is designed to ensure tax neutrality in respect of property or services of its members sold through the cooperative and property or services acquired by members through the cooperative. (*coopérative*)

core international shipping activity has the meaning assigned in subsection 19(6). (*activité de transport maritime internationale principale*)

core international shipping costs has the meaning assigned in subsection 19(5). (*coûts relatifs au transport maritime international principal*)

core international shipping income has the meaning assigned in subsection 19(3). (*revenu de transport maritime international principal*)

core international shipping revenue has the meaning assigned in subsection 19(4). (*recettes de transport maritime internationale principale*)

corporation includes an incorporated company, arrangement, association, organization or body. (*société*)

covered taxes has the meaning assigned in subsection 23(1). (*impôts concernés*)

deductible dividend means, with respect to a constituent entity that is subject to a deductible dividend regime,

(a) a distribution of profits, by the constituent entity to the holder of an ownership interest in the constituent entity, that is deductible from income for tax purposes of the constituent entity under the laws of the jurisdiction in which it is located; or

(b) a patronage dividend distributed to a member of a cooperative. (*dividende déductible*)

deductible dividend regime means a tax regime that is

(a) designed to yield a single level of taxation, on the owners of an entity, through a deduction from the income of the entity for distributions of profits to the owners (which, for this purpose, are considered to include patronage dividends); or

(b) applicable to cooperatives and exempts the cooperative from taxation. (*régime des dividendes déductibles*)

deemed distribution tax has the meaning assigned in subsection 37(2). (*impôt sur les distributions présumées*)

deemed distribution tax recapture account means an account established and maintained in accordance with subsection 37(1). (*compte de récupération de l'impôt sur les distributions présumées*)

departing constituent entity, of an MNE group, means an entity that was a standard constituent entity of the MNE group located in a jurisdiction in a fiscal year in respect of which an election was made under subsection 37(1) and that

(a) leaves the MNE group; or

(b) transfers substantially all of its assets to a recipient that is not, at the time of the transfer, a standard constituent entity of the MNE group located in the jurisdiction. (*entité constitutive sortante*)

disallowed accrual of a constituent entity means any movement in deferred tax expense accrued in the constituent entity's financial accounts that relates to

(a) an uncertain tax position; or

(b) a distribution from a group entity in respect of the constituent entity. (*accumulation non admise*)

disposition recapture ratio has the meaning assigned in subsection 37(6). (*ratio de récupération de disposition*)

disqualified refundable imputation tax means an amount of tax paid or accrued by a constituent entity (other than an amount of tax paid or accrued that is a qualified imputation tax) that is

(a) refundable to the beneficial owner of a dividend or similar amount distributed by the constituent entity, in respect of the distribution;

(b) creditable against a tax liability (other than a tax liability in respect of the distribution) of the beneficial owner, in respect of the distribution; or

(c) refundable to, or creditable against a tax liability of, the constituent entity, in respect of the distribution. (*impôt d'imputation remboursable non admissible*)

domestic top-up amount has the meaning assigned in subsection 50(1). (*montant complémentaire national*)

dual-listed arrangement means an exclusively contractual arrangement entered into by the ultimate parent entities of two or more groups, under which

(a) all or substantially all the businesses of the groups are combined;

(b) each of the ultimate parent entities make distributions (including dividends and distributions on a liquidation, if relevant) to their respective owners on the basis of a fixed ratio;

(c) the activities of the groups are managed as those of a single economic unit;

(d) the groups retain the separate legal identity they had before the arrangement was entered into;

(e) ownership interests of at least one of the ultimate parent entities are quoted, traded or transferred independently on a securities market that is not the same securities market on which the ownership interests of another of the ultimate parent entities are quoted, traded or transferred independently; and

(f) financial statements are prepared by one or more of the ultimate parent entities in which the assets, liabilities, income, expenses and cash flows of all the entities of all the groups are presented together as those of a single economic unit, and those financial statements

(i) would be consolidated financial statements if the entities of all the groups were included in a single group and the ultimate parent entity that prepared the financial statements was the ultimate parent entity of that group, and

(ii) are required by an applicable regulatory regime of a jurisdiction to be externally audited. (*accord de double cotation*)

effective tax rate has the meaning assigned in subsection 29(1). (*taux effectif d'imposition*)

eligible distribution tax system, of a jurisdiction, means a corporate income tax system applicable in the jurisdiction that

(a) generally imposes tax on the amount of the profits, or certain non-business expenses, of a corporation only on or after the time that the corporation

- (i)** distributes those profits to its shareholders,
- (ii)** is deemed to distribute those profits to its shareholders, or
- (iii)** incurs those expenses;

(b) imposes tax at a rate greater than or equal to the minimum rate; and

(c) was in force on or before July 1, 2021. (*régime admissible d'impôt sur les distributions*)

eligible employee has the meaning assigned in subsection 32(7). (*employé admissible*)

eligible payroll costs has the meaning assigned in subsection 32(2). (*frais de personnel admissibles*)

eligible tangible asset has the meaning assigned in subsection 32(12). (*actif corporel admissible*)

eligible tangible asset amount has the meaning assigned in subsection 32(8). (*montant de l'actif corporel admissible*)

entity means a corporation, a partnership, a trust or any other arrangement, association, organization or body whether registered or unregistered for which separate financial accounts are prepared, but shall not include central, state or local government or their administration or agencies that carry out government functions. (*entité*)

ETR adjustment provision means any of paragraph 18(21)(c), subsection 25(6), paragraph 27(1)(b), subsection 27(4), paragraph 37(4)(b) or 37(5)(b). (*disposition d'ajustement du TEI*)

excess negative tax expense has the meaning assigned in subsection 29(4). (*charge d'impôt négative excédentaire*)

excess negative tax expense top-up amount has the meaning assigned in subsection 31(2). (*montant complémentaire de la charge d'impôt négative excédentaire*)

excess profit has the meaning assigned in subsection 30(4). (*bénéfice excédentaire*)

excluded costs has the meaning assigned in subsection 32(3). (*coûts exclus*)

excluded dividends means any dividends or other distributions received or accrued by a constituent entity in respect of an ownership interest in an entity, other than:

(a) a dividend or distribution received or accrued in respect of

- (i)** an interest that is a short-term portfolio holding at the date of the distribution, or
- (ii)** an ownership interest in an investment entity that is subject to an election under subsection 42(1); or

(b) a dividend or other distribution

(i) to the extent that it reflects a debt interest rather than an equity interest, or

(ii) if

(A) it was made by another group entity, and

(B) amounts in respect of the distribution are treated as an expense for the purposes of determining the financial accounting income of the other group entity. (*dividendes exclus*)

excluded entity has the meaning assigned in subsection 13(1). (*entité exclue*)

excluded equity gain or loss, of a particular constituent entity for a fiscal year, means the gain, profit or loss included in the financial accounting income of the particular constituent entity arising from

- (a) gains and losses arising from changes in fair value of an ownership interest, or the impairment of an ownership interest, except for an interest that is a portfolio holding at the time of the change in value or impairment;
- (b) profit or loss in respect of an ownership interest included under the equity method of accounting; or
- (c) gains and losses from a disposition of an ownership interest, except for a disposition of an interest that is a portfolio holding at the date of the disposition. (*profit ou perte sur capitaux propres exclus*)

excluded taxes has the meaning assigned in subsection 23(2). (*impôts exclus*)

filing constituent entity means

- (a) in respect of a qualifying MNE group for a fiscal year, a constituent entity of the MNE group that is
 - (i) located in Canada and required to file a GIR with the Minister, in respect of the MNE group for the fiscal year, in accordance with subsection 59(1),
 - (ii) a designated local entity (within the meaning of paragraph 59(2)(a)) for the fiscal year, or
 - (iii) a qualifying foreign filing entity (within the meaning of subsection 53(1)) for the fiscal year; and
- (b) in respect of an investment subgroup, joint venture group, minority-owned subgroup or minority-owned investment subgroup included in a qualifying MNE group for a fiscal year, the filing constituent entity that files the GIR in respect of the MNE group for the fiscal year. (*entité constitutive déclarante*)

financial accounting income has the meaning assigned in subsection 17(1). (*résultat net comptable*)

financial accounting revenue has the meaning assigned in subsection 33(3). (*chiffre d'affaires comptable*)

fiscal year means

- (a) an accounting period in respect of which the ultimate parent entity of an MNE group prepares its consolidated financial statements; or
- (b) if paragraph (d) of the definition *consolidated financial statements* applies in respect of the ultimate parent entity, the calendar year. (*année financière*)

fiscally transparent, in respect of an entity, means under the laws of a jurisdiction, the income, expenditure, profit or loss of the entity is treated as if it were derived or incurred by the direct owner of the entity in proportion to its interest in the entity. (*fiscalement transparent*)

five-year election means an election, under a particular provision of this Act in respect of a particular fiscal year, to which the following rules apply:

- (a) the election applies to the particular fiscal year and, unless the election is revoked, each subsequent fiscal year;
- (b) the election cannot be revoked before the fifth fiscal year following the particular fiscal year;
- (c) if the election is revoked, a subsequent election under the particular provision cannot be made until the fifth fiscal year following the revocation year; and
- (d) an election or revocation, as the case may be, under the particular provision is filed
 - (i) in the GIR of the MNE group of which the filing constituent entity is a member, and

(ii) on or before the GIR due-date of the MNE group for the first fiscal year in respect of which the election or revocation, as the case may be, is to be effective. (*choix pour cinq ans*)

flow-through entity means

- (a) an entity to the extent it is
 - (i) fiscally transparent under the laws of the jurisdiction where it was created, and
 - (ii) not tax resident and not subject to a covered tax on its income or profit in another jurisdiction; or
- (b) a constituent entity deemed to be a flow-through entity under subsection (7). (*entité intermédiaire*)

general government means the central administration, agencies whose operations are under its effective control, state and local governments and their respective administrations. (*administrations publiques*)

GIR means an information return that is in accordance with the *GloBE Information Return* issued by the OECD, as amended from time to time, that contains the information described in subsection 59(4) and that is

- (a) if required to be filed with the Minister by a constituent entity located in Canada under subsection 59(1) or subparagraph 59(2)(b)(i), the information return in prescribed form, and
- (b) in any other case, a substantially similar information return that is required to be filed in a jurisdiction other than Canada. (*DRG*)

GIR due-date, in respect of a qualifying MNE group for a fiscal year, means the date that is

- (a) if that fiscal year is the first fiscal year that the MNE group is a qualifying MNE group, 18 months after the last day of the fiscal year; and
- (b) in any other case, 15 months after the last day of the fiscal year. (*date d'échéance DRG*)

GloBE commentary means *Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two)* published by the OECD on March 14, 2022, as amended from time to time. (*commentaires GloBE*)

GloBE income, of a constituent entity for a fiscal year, means an amount equal to the positive value, if any, of the constituent entity's GloBE income or loss for the fiscal year. (*revenu GloBE*)

GloBE income or loss has the meaning assigned in section 16. (*résultat net GloBE*)

GloBE loss, of a constituent entity for a fiscal year, means an amount equal to the negative value, if any, of the constituent entity's GloBE income or loss for the fiscal year, expressed as a positive number. (*perte GloBE*)

GloBE model rules means *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)* published by the OECD on December 20, 2021. (*règles GloBE*)

GloBE reorganization means a transformation or transfer of assets and liabilities such as in a merger, demerger, liquidation or similar transaction, if

- (a) it is the case that
 - (i) if no consideration is provided for the transfer, the issuance of an equity interest as consideration on the transfer would have no economic significance because the transaction does not result in a change in the beneficial ownership in respect of an entity, and
 - (ii) in any other case, the consideration for the transfer consists, in whole or in significant part, of

(A) if the transaction is a liquidation, the cancellation of equity interests of the entity that is the subject of the liquidation, and

(B) in any other case, equity interests issued by the acquiror or an entity that is connected with the acquiror;

(b) the transferor's gain or loss on the transfer is not subject, in whole or in part, to an income or profits tax in any jurisdiction; and

(c) for the purpose of determining the acquiror's income or profits that are subject to an income or profits tax of the jurisdiction in which it is located, the acquiror is required under the laws of that jurisdiction to use its tax basis in respect of the transferred assets, adjusted to reflect any non-qualifying gain or loss in respect of the transfer. (*réorganisation GloBE*)

governmental entity means an entity, if

(a) it is part of or wholly-owned by a government (including any political subdivision or local authority thereof);

(b) its principal purpose is

(i) fulfilling a government function, or

(ii) managing or investing the government's assets through the making and holding of investments, asset management and related investment activities for the government's assets;

(c) it does not carry on a trade or business (other than an investment business described in subparagraph (b)(ii));

(d) it is accountable to the government on its overall performance and provides annual information reporting to the government;

(e) its assets vest in the government upon dissolution; and

(f) to the extent it distributes net earnings, the net earnings are distributed solely to the government with no portion of its net earnings inuring to the benefit of any private person. (*entité gouvernementale*)

group has the meaning assigned in subsection 10(2). (*groupe*)

group entity, in respect of another entity or a group, means an entity that is a member of the same group. (*entité du groupe*)

high-tax counterparty means a constituent entity that is located in a jurisdiction that

(a) is not a low-tax jurisdiction; or

(b) would not be a low-tax jurisdiction, if its effective tax rate were determined without regard to any income or expense accrued by that entity in respect of an intragroup financing arrangement. (*contrepartie à fiscalité élevée*)

hybrid entity, in relation to an owner, means an entity that is

(a) not fiscally transparent in the jurisdiction where it is located; and

(b) fiscally transparent in the jurisdiction where the owner is located. (*entité hybride*)

IFRS means the International Financial Reporting Standards. (*IFRS*)

IIR means any law of a jurisdiction that may reasonably be considered to have been enacted with the intention of implementing, in whole or in part, Articles 2.1 to 2.3 of the GloBE model rules. (*RDIR*)

included revaluation method gain or loss means the net gain or loss, before covered taxes, for a fiscal year in respect of all property, plant and equipment that arises under an accounting method or practice that

- (a) periodically adjusts the carrying value of such property to its fair value;
- (b) records the changes in value in other comprehensive income; and
- (c) does not subsequently report the gains or losses recorded in other comprehensive income through profit and loss. (*profit ou perte inclus au titre de la méthode de réévaluation*)

inclusion ratio has the meaning assigned in subsection 15(3). (*ratio d'inclusion*)

Inclusive Framework means the jurisdictions comprising the OECD and Group of 20 Inclusive Framework on Base Erosion and Profit Shifting. (*Cadre inclusif*)

insurance investment entity means a particular entity, other than an investment fund or a real estate investment vehicle,

- (a) that would be an investment fund if the definition *investment fund* in this subsection were read without reference to subparagraph (a)(i) and paragraph (d) of that definition;
- (b) that is primarily designed or established to generate investment income or gains to offset, or protect against an event or outcome that gives rise to, liabilities or losses associated with insurance or annuity contracts;
- (c) that allows for the reduction of costs, or spreading of risks, associated with insurance or annuity contracts; and
- (d) each ownership interest in which is held by one or more entities that are
 - (i) group entities in respect of the particular entity, and
 - (ii) subject to a regulatory regime, in the jurisdiction in which each such entity is established or managed, that is specific to entities engaged in the business of negotiating and entering into contracts of insurance or annuity or engaging in activities ancillary to that business. (*entité d'investissement d'assurance*)

intermediate parent entity means a constituent entity of an MNE group (other than an ultimate parent entity, partially-owned parent entity, permanent establishment, investment entity or insurance investment entity) that holds, directly or indirectly, an ownership interest in another constituent entity of the MNE group. (*entité mère intermédiaire*)

international organization means any intergovernmental or supranational organization, or an entity that acts for, is part of or is wholly-owned by that organization, if

- (a) the organization is comprised primarily of governments;
- (b) it has in effect a headquarters or substantially similar agreement, such as arrangements for privileges or immunities in respect of its offices or establishments, with the jurisdiction in which it is established; and
- (c) law or its governing documents prevent its income inuring to the benefit of private persons. (*organisation internationale*)

international shipping means the transportation of passengers or cargo by ship in international traffic. (*transport maritime international*)

international traffic means any transport by ship, except when the ship is operated solely between places within a single jurisdiction. (*trafic international*)

intragroup financing arrangement means any arrangement between two or more group entities of an MNE group whereby a high-tax counterparty directly or indirectly provides credit or otherwise makes an investment in a low-tax entity. (*accord de financement intragroupe*)

investment entity, for a fiscal year, means

- (a)** an entity that is an investment fund for all or substantially all of the fiscal year;
- (b)** an entity that is a real estate investment vehicle for all or substantially all of the fiscal year;
- (c)** a particular entity, if
 - (i)** for all or substantially all of the fiscal year ownership interests in the particular entity having a fair market value equal to at least 95% of the fair market value of all ownership interests in the particular entity are held directly, or indirectly through one or more other entities that are investment funds or real estate investment vehicles, by one or more entities that are investment funds or real estate investment vehicles, and
 - (ii)** all or substantially all the activities of the particular entity during the fiscal year consist of holding assets or investing funds for the benefit of any of the investment funds or real estate investment vehicles described in subparagraph (i); or
- (d)** a particular entity, if
 - (i)** for all or substantially all of the fiscal year ownership interests in the particular entity having a fair market value equal to at least 85% of the fair market value of all ownership interests in the particular entity are held directly, or indirectly through one or more other entities that are investment funds or real estate investment vehicles, by one or more entities that are investment funds or real estate investment vehicles, and
 - (ii)** all or substantially all the financial accounting income of the particular entity is comprised of excluded dividends or excluded equity gains or losses. (*entité d'investissement*)

investment fund means an entity

- (a)** primarily designed or established to
 - (i)** pool assets (which may be financial or non-financial) from a number of investors, at least some of which are not connected, and
 - (ii)** generate investment income or gains, or protect against a specific or general event or outcome;
- (b)** that invests in accordance with a defined investment policy;
- (c)** that allows investors to reduce transaction, research and analytical costs, or to spread risk collectively;
- (d)** the investors in which have a right to the assets of the entity, or income earned on those assets, based on the respective contributions made by those investors;
- (e)** that is, or the management of which is, subject to a regulatory regime (which may include appropriate anti-money laundering and investor protection regulations) in the jurisdiction in which it is established or managed; and
- (f)** that is managed by investment management professionals on behalf of its investors. (*fonds de placement*)

joint venture entity, of a joint venture group, means the joint venture parent or a joint venture subsidiary of the group. (*entité d'une coentreprise*)

joint venture group means a joint venture parent and its joint venture subsidiaries. (*groupe d'une coentreprise*)

joint venture parent, in respect of a particular MNE group (other than a group composed exclusively of excluded entities), means a particular entity

- (a)** the financial results of which are reported under the equity method in the consolidated financial statements of the ultimate parent entity of the particular MNE group;

(b) at least 50% of the ownership interests of which are held, directly or indirectly, by the ultimate parent entity of the particular MNE group; and

(c) that is not

(i) the ultimate parent entity of a qualifying MNE group,

(ii) an excluded entity described in paragraph 13(1)(a),

(iii) an entity, if

(A) all ownership interests in that entity held by group entities in respect of the particular MNE group are held directly by excluded entities described in paragraph 13(1)(a), and

(B) one of the following conditions is met:

(I) the entity operates exclusively or almost exclusively to hold assets or invest funds for the benefit of its investors,

(II) the entity carries out activities that are ancillary to those carried out by any of those group entities, or

(III) all or substantially all of the financial accounting income of the entity is excluded dividends or excluded equity gains, or

(iv) a joint venture subsidiary of another joint venture parent. (*entité mère d'une coentreprise*)

joint venture subsidiary, of a joint venture parent, means an entity (other than a joint venture parent or an excluded entity) the assets, liabilities, income, expenses and cash flows of which would be, by reason of ownership or control, included in the consolidated financial statements of the joint venture parent if the references in the definition of *consolidated financial statements* in this subsection to “ultimate parent entity” were read as references to the “joint venture parent”. (*filiale d'une coentreprise*)

jurisdictional adjusted covered taxes has the meaning assigned in subsection 29(3). (*impôts concernés ajustés juridictionnels*)

jurisdictional excess negative tax expense top-up amount has the meaning assigned in subsection 31(4). (*montant complémentaire de la charge d'impôt négative excédentaire juridictionnel*)

jurisdictional GloBE income or loss has the meaning assigned in subsection 33(4). (*résultat net GloBE juridictionnel*)

jurisdictional GloBE revenue has the meaning assigned in subsection 33(2). (*chiffre d'affaires GloBE juridictionnel*)

jurisdictional top-up amount has the meaning assigned in subsection 30(2). (*montant complémentaire juridictionnel*)

local tangible asset, in respect of a constituent entity, means real or immovable property located in the same jurisdiction as the constituent entity. (*actif corporel local*)

local taxation year of an entity means the period for which the accounts of the entity have been ordinarily made up for the purpose of computing the entity's income for tax purposes in the jurisdiction in which the entity is located. (*année d'imposition locale*)

look-back period, in respect of an election under subsection 18(21), means the election year and the 4 fiscal years immediately preceding the election year. (*période antérieure concernée*)

loss year, in respect of a jurisdiction for which the filing constituent entity has made an election under subsection 18(21), means the fiscal year in the look-back period for which there is a net asset loss for a constituent entity of an MNE group located in that jurisdiction and the total amount of net asset loss of all constituent entities of the MNE group located in that jurisdiction exceeds the total amount of their net asset gain. (*année de perte*)

low-tax entity means a constituent entity located in

(a) a low-tax jurisdiction; or

(b) a jurisdiction that would be a low-tax jurisdiction, if the effective tax rate for the jurisdiction were determined without regard to any income or expense accrued by that entity in respect of an intragroup financing arrangement. (*entité faiblement imposée*)

low-tax jurisdiction, in respect of an MNE group for any fiscal year, means a jurisdiction where the MNE group has net GloBE income and an effective tax rate for that fiscal year that is lower than the minimum rate. (*jurisdiction à faible imposition*)

MNE group has the meaning assigned in subsection 10(1). (*groupe d'EMN*)

main entity, in respect of a permanent establishment, is the entity that includes the financial accounting income of the permanent establishment in its financial statements. (*entité principale*)

material competitive distortion, in respect of consolidated financial statements, means an application of a specific principle or procedure, under the set of generally accepted accounting principles used in preparing the consolidated financial statements, that results in an aggregate variation greater than €75 million in a fiscal year as compared to the amounts that would have been determined by applying the corresponding IFRS principle or procedure. (*distorsion importante créant un avantage concurrentiel*)

minimum rate means 15%. (*taux minimum*)

Minister means the Minister of National Revenue. (*ministre*)

minority-owned constituent entity means a constituent entity of an MNE group if the ultimate parent entity of the MNE group holds, directly or indirectly, 30% or less of the ownership interests in the constituent entity. (*entité constitutive à détention minoritaire*)

minority-owned parent entity means a particular minority-owned constituent entity that holds, directly or indirectly, the controlling interest in another minority-owned constituent entity except where the controlling interest of the particular minority-owned constituent entity is held, directly or indirectly, by another minority-owned constituent entity. (*entité mère à détention minoritaire*)

minority-owned subgroup means

(a) a minority-owned parent entity and its minority-owned subsidiaries; or

(b) a minority-owned constituent entity that is not a minority-owned parent entity or a minority-owned subsidiary. (*sous-groupe à détention minoritaire*)

minority-owned subsidiary means a minority-owned constituent entity the controlling interest in which is held, directly or indirectly, by a minority-owned parent entity. (*filiale à détention minoritaire*)

multi-parented MNE group means two or more groups, if

(a) the ultimate parent entities of the groups are party to a stapled structure or a dual-listed arrangement; and

(b) at least one entity or permanent establishment included in any of the groups – or an entity, or a permanent establishment in respect of a main entity, that would be included in any of the groups if all the ownership interests in that entity or main entity held by group entities of the groups were held by a single group entity of one of the groups – is not located in the jurisdiction in which any other entity or permanent establishment included in any of the groups is located. (*groupe d'EMN à entités mères multiples*)

mutual insurance company means a regulated insurance company that does not have share capital and is owned exclusively by its policyholders. (*compagnie d'assurance mutuelle*)

negative tax expense constituent entity has the meaning assigned in subsection 31(3). (*entité constitutive avec charge d'impôt négative*)

net asset gain, of a constituent entity for a fiscal year, in respect of an election under subsection 18(21), means the net gain from the disposition of local tangible assets by the constituent entity located in the jurisdiction for which the election was made, excluding the gain or loss on a transfer of assets to another group entity. (*profit net sur cession d'actifs*)

net asset loss, of a constituent entity for a fiscal year, in respect of an election under subsection 18(21), means the net loss from the disposition of local tangible assets by the constituent entity in the fiscal year (excluding the gain or loss on a transfer of assets to another group entity), less the total of all amounts, if any, allocated to the constituent entity under a previous election under that subsection. (*perte nette sur cession d'actifs*)

net GloBE income has the meaning assigned in subsection 29(2). (*revenu GloBE net*)

net GloBE loss, of an MNE group for a jurisdiction for a fiscal year, means the absolute value of the negative amount, if any, that would be determined, in the absence of section 8, by the formula

$$A - B$$

where

- A** is the total of all amounts each of which is the GloBE income for the fiscal year of a standard constituent entity of the MNE group located in the jurisdiction; and
- B** is the total of all amounts each of which is the GloBE loss for the fiscal year of a standard constituent entity of the MNE group located in the jurisdiction. (*perte GloBE nette*)

net income or loss from international shipping has the meaning assigned in subsection 19(2). (*résultat net de transport maritime international*)

non-profit organization means an entity, if

- (a)** the entity is established and operated in the jurisdiction where it is located
 - (i)** exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational or other similar purposes, or
 - (ii)** as a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
- (b)** substantially all of the income of the entity from the activities referred to in paragraph (a) is exempt from income tax in the jurisdiction where it is located;
- (c)** the entity has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- (d)** the income or assets of the entity may not be distributed to, or applied for the benefit of, a private person or non-charitable entity other than
 - (i)** pursuant to the conduct of the entity's charitable activities,
 - (ii)** as payment of reasonable compensation for services rendered or for the use of property or capital, or
 - (iii)** as payment representing the fair market value of property which the entity has purchased;
- (e)** upon termination, liquidation or dissolution of the entity, all of the entity's assets must be distributed or revert to a non-profit organization or to the government (including any governmental entity) of the jurisdiction where it is located or any political subdivision thereof; and
- (f)** the entity does not carry on a trade or business that is not directly related to the purposes for which it was established. (*organisation à but non lucratif*)

non-qualified refundable tax credit means a tax credit that is not a qualified refundable tax credit but that is refundable in whole or in part. (*crédit d'impôt remboursable non admissible*)

non-qualifying gain or loss means the lesser of

- (a) the portion of any gain or loss, arising in respect of a transfer of assets and liabilities in connection with a GloBE reorganization, that is subject to income or profits tax in the jurisdiction where the transferor is located; and
- (b) the portion of the gain or loss that is reflected in the financial accounts. (*profit ou perte non admissible*)

OECD means the Organisation for Economic Co-operation and Development. (*OCDE*)

OECD Model Tax Convention means the OECD (2017), Model Tax Convention on Income and on Capital: Condensed Version 2017, OECD Publishing, Paris, https://doi.org/10.1787/mtc_cond-2017-en. (*Modèle de Convention fiscale de l'OCDE*)

other comprehensive income, in respect of a constituent entity, means items of income and expense that are recognized outside of the profit or loss account in the financial statements used in determining the entity's GloBE income. (*autres éléments du résultat global*)

owner means an entity that directly or indirectly holds an ownership interest in another entity. (*détenteur*)

ownership interest means any direct or indirect equity interest that carries rights to the profits, capital or reserves of an entity, including the profits, capital or reserves of a main entity's permanent establishment. (*titre de participation*)

partially-owned parent entity means a constituent entity of an MNE group (other than an ultimate parent entity, permanent establishment, investment entity or insurance investment entity)

- (a) that holds, directly or indirectly, an ownership interest in another constituent entity of the MNE group; and
- (b) less than 80% of the ownership interests in which are held, directly or indirectly, by constituent entities of the MNE group. (*entité mère partiellement détenue*)

patronage dividend means a distribution by a cooperative to its members. (*ristourne*)

pension fund means

- (a) an entity that is established and operated in a jurisdiction exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals, if
 - (i) the entity is regulated as such by that jurisdiction or one of its political subdivisions or local authorities, or
 - (ii) those benefits are secured or otherwise protected by national regulations and funded by a pool of assets held through a fiduciary arrangement or trust to secure the fulfilment of the corresponding pension obligations against a case of insolvency of the entity or the MNE group of which the entity is a member; or
- (b) a pension services entity. (*fonds de pension*)

pension services entity means an entity that is established and operated exclusively or almost exclusively

- (a) to invest funds for the benefit of entities described in paragraph (a) of the definition *pension fund*; or
- (b) to carry out activities that are ancillary to the regulated activities carried out by an entity described in paragraph (a) of the definition *pension fund*, provided that the entities are members of the same group. (*entité de services de fonds de pension*)

permanent difference means a difference between the treatment of an amount for tax purposes and for accounting purposes that is not eliminated over time and does not give rise to deferred tax. (*différence permanente*)

permanent establishment means a place of business, including a deemed place of business (within the meaning of the OECD Model Tax Convention, a tax treaty or the domestic law of a jurisdiction),

- (a) that is situated in a jurisdiction and treated as a permanent establishment in accordance with an applicable tax treaty in force, provided that the jurisdiction taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD Model Tax Convention;
- (b) if there is no applicable tax treaty in force, in respect of which a jurisdiction taxes the income attributable to that place of business under its domestic law on a net basis similar to the manner in which it taxes its own tax residents;
- (c) if a jurisdiction has no corporate income tax system, that is situated in that jurisdiction and that would be treated as a permanent establishment in accordance with the OECD Model Tax Convention, provided that the jurisdiction would have had the right to tax the income attributable to it in accordance with Article 7 of that model convention; or
- (d) that is not already described in paragraphs (a) to (c) through which operations are conducted outside the jurisdiction where the entity that would be the main entity if the place of business were a permanent establishment is located, provided that that jurisdiction exempts the income attributable to the operations conducted through the place of business. (*établissement stable*)

person includes an individual, a corporation, a partnership or a trust. (*personne*)

portfolio holding means ownership interests in an entity that are held by a constituent entity, either alone or together with other group entities, and that carry rights to less than 10% of the profits, capital, reserves or voting rights of that entity

- (a) for the purposes of the definitions *excluded dividends* and *short-term portfolio holding*, on the earlier of
 - (i) the date on which the distribution is made, and
 - (ii) the date on which the recipient of the distribution becomes entitled to the dividend; and

- (b) for the purposes of the definition *excluded equity gains or losses*, at the end of the fiscal year in which the gain, profit or loss arises. (*titres de portefeuille*)

prescribed means

- (a) in the case of a form, the information to be given on a form or the manner of filing a form, authorized by the Minister;
- (b) in the case of the manner of making or filing an election, authorized by the Minister; and
- (c) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation. (*prescrit*)

qualified IIR, for a fiscal year, means an IIR that has qualified status for the fiscal year as determined by the Inclusive Framework and published on the Internet website of the OECD. (*RDIR admissible*)

qualified UTPR, for a fiscal year, means a UTPR that has qualified status for the fiscal year as determined by the Inclusive Framework and published on the Internet website of the OECD. (*RPII admissible*)

qualified ancillary international shipping income has the meaning assigned in subsection 19(7). (*revenu de transport maritime international accessoire admissible*)

qualified debt release amount, for a fiscal year, of a constituent entity that is a debtor, means an amount in respect of a debt release to the extent that

- (a) the debt release is pursuant to a statutory insolvency or bankruptcy proceeding

- (i) that is supervised by a court or other judicial body in the jurisdiction in which the debtor is located, or
 - (ii) under which an independent insolvency administrator is appointed;
- (b) the following conditions are met:
- (i) the debt release arises pursuant to an arrangement with one or more creditors that are not connected with the debtor (each referred to in this definition as a “third-party creditor”),
 - (ii) it is reasonable to consider that, in the absence of the release of debts owed to one or more third-party creditors under the arrangement, the debtor would be insolvent within 12 months of the date of the release, and
 - (iii) the debtor provides an independent expert opinion attesting that the condition in subparagraph (ii) is met; or
- (c) if neither paragraph (a) nor (b) is met,
- (i) the amount is in respect of a debt owed to a third-party creditor,
 - (ii) the debtor’s liabilities exceed the fair market value of its assets, determined immediately before the debt release, and
 - (iii) the amount does not exceed the lesser of
 - (A) the debtor’s liabilities less the fair market value, determined immediately before the debt release, of its assets, and
 - (B) the reduction in the debtor’s tax attributes under the tax laws of the jurisdiction in which the debtor is located resulting from the debt release. (*montant de la libération de la dette admissible*)

qualified domestic minimum top-up tax, for a fiscal year, means a law of a jurisdiction that has the status of a qualified domestic minimum top-up tax for the fiscal year as determined by the Inclusive Framework and published on the Internet website of the OECD. (*impôt complémentaire minimum national admissible*)

qualified imputation tax means an amount of covered taxes, paid or accrued by a constituent entity, that is

- (a) imposed under the laws of a jurisdiction (referred to in this definition as the “subject jurisdiction”); and
- (b) refundable to, or creditable against the tax liability of, the beneficial owner of a dividend or similar distribution by the constituent entity (or by the main entity in respect of the constituent entity, if the constituent entity is a permanent establishment), if
 - (i) the amount is refundable or creditable under
 - (A) subsection 126(1) or (2) of the *Income Tax Act*, or
 - (B) a provision of the laws of another jurisdiction that is substantially similar to one of those subsections, or
 - (ii) the beneficial owner is
 - (A) subject to tax on a current basis, in respect of the dividend or similar distribution, under the laws of the subject jurisdiction at a nominal rate that is greater than or equal to the minimum rate,
 - (B) a natural person that is
 - (I) resident for income tax purposes in the subject jurisdiction, and
 - (II) subject to tax as ordinary income, in respect of the dividend or similar distribution, under the laws of the subject jurisdiction,

- (C) a governmental entity or an international organization,
- (D) an investment entity (other than a group entity in respect of the constituent entity) that is created and regulated in the subject jurisdiction,
- (E) a non-profit organization or pension fund that is created and managed in the subject jurisdiction, or
- (F) a life insurance company located in the subject jurisdiction to the extent that the dividend or similar distribution is
 - (I) received in connection with a business that is substantially similar to that of a pension fund, and
 - (II) subject to tax, under the laws of the subject jurisdiction, in a manner that is substantially similar to the manner in which a pension fund is, under the laws of the subject jurisdiction, subject to tax in respect of a dividend or similar distribution. (*impôt d'imputation admissible*)

qualified refundable tax credit means a tax credit (other than any amount of tax creditable or refundable pursuant to a qualified imputation tax or a disqualified refundable imputation tax) that is

- (a) a refundable tax credit payable or available as cash or cash equivalents within four years from when a constituent entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit; or
- (b) refundable in part, to the extent that it satisfies the condition in paragraph (a). (*crédit d'impôt remboursable admissible*)

qualifying MNE group has the meaning assigned in subsection 9(1). (*groupe d'EMN admissible*)

qualifying owner has the meaning assigned in subsection 42(3). (*détenteur admissible*)

qualifying tier one capital means an instrument issued by a constituent entity pursuant to regulatory requirements applicable to the banking or insurance sector that is convertible to equity or written down if a pre-specified trigger event occurs and that has other features which are designed to aid loss absorbency in the event of a financial crisis. (*fonds propres de catégorie 1 admissibles*)

real estate investment vehicle means an entity

- (a) the taxation of which achieves a single level of taxation either in its hands or the hands of its interest holders (with at most one year of deferral); and
- (b) that
 - (i) holds predominantly immovable property, and
 - (ii) is itself widely held. (*véhicule d'investissement immobilier*)

recapture account loss carry-forward has the meaning assigned in subsection 37(3). (*report des pertes du compte de récupération*)

recapture exception accrual means a tax expense accrued in the financial accounts of a constituent entity that is attributable to changes in associated deferred tax liabilities in respect of

- (a) cost recovery allowance on a tangible asset;
- (b) the cost of a license or similar arrangement from a government for the use of immovable property or the exploitation of natural resources that entails significant investment in tangible assets;
- (c) research and development expenses;

- (d) decommissioning and remediation expenses;
- (e) fair value accounting on unrealized net gains;
- (f) foreign currency exchange net gains;
- (g) insurance reserves and insurance policy deferred acquisition costs;
- (h) a gain that is
 - (i) from the sale of tangible property located in the jurisdiction in which the constituent entity is located, and
 - (ii) re-invested in tangible property located in the jurisdiction; and
- (i) an additional amount accrued as a result of accounting principle changes with respect to an item described in any of paragraphs (a) to (h). (*charge d'impôt non soumise à récupération*)

regulation means a regulation made by the Governor in Council under this Act. (*règlement*)

relevant parent entity has the meaning assigned in subsection 14(3). (*entité mère pertinente*)

revenue threshold has the meaning assigned in subsection 9(2). (*seuil de chiffre d'affaires*)

reverse hybrid entity means a flow-through entity, if

- (a) in relation to an owner that holds a direct ownership interest in the flow-through entity, the flow-through entity is not a tax transparent entity; or
- (b) in relation to an owner that holds an indirect ownership interest in the flow-through entity,
 - (i) the flow-through entity is not a tax transparent entity, and
 - (ii) each entity through which that owner holds its indirect ownership interest is a tax transparent entity. (*entité hybride inversée*)

revocation year, in respect of a five-year election or an election under section 26, means the first fiscal year for which the election is no longer in effect because it has been revoked. (*année de révocation*)

short-term portfolio holding means a portfolio holding that has been economically held by the constituent entity that receives or accrues the dividends or other distributions for less than one year at the date of the distribution. (*titre de portefeuille à court terme*)

standard constituent entity has the meaning assigned in subsection 11(3). (*entité constitutive type*)

stapled structure means an arrangement entered into by the ultimate parent entities of two or more groups, under which

- (a) not less than 50% of the ownership interests in each ultimate parent entity are (by reason of form of ownership, restrictions on transfer or any other terms or conditions) combined with not less than 50% of the ownership interests in each other ultimate parent entity and cannot be transferred or traded other than in that combined form;
- (b) if the combined ownership interests of the ultimate parent entities are listed on a securities market, they are quoted at a single price; and
- (c) financial statements are prepared by one of the ultimate parent entities in which the assets, liabilities, income, expenses and cash flows of all the entities of all the groups are presented together as those of a single economic unit, and those financial statements

(i) would be consolidated financial statements if the entities of all the groups were included in a single group and the ultimate parent entity that prepared the financial statements was the ultimate parent entity of that group, and

(ii) are required by an applicable regulatory regime of a jurisdiction to be externally audited. (*structure indissociable*)

stateless constituent entity means a constituent entity of an MNE group that is either

(a) a stateless entity described in paragraph 5(2)(b); or

(b) a stateless permanent establishment described in paragraph 5(3)(d). (*entité constitutive apatride*)

substance-based income exclusion amount has the meaning assigned in subsection 32(1). (*montant de l'exclusion de revenus fondée sur la substance*)

substitute loss carry-forward recapture amount, of a constituent entity located in a particular jurisdiction, means an amount if

(a) the amount would be a tax loss or a portion of a tax loss (referred to in this definition as the “consumed domestic loss”) of the constituent entity but for the consumed domestic loss being offset against another amount – in respect of the income of another entity (referred to in this definition as the “controlled foreign company”) that is located in a jurisdiction other than the particular jurisdiction and in which the constituent entity holds, directly or indirectly, an ownership interest – that is included, under the controlled foreign company tax regime of the particular jurisdiction, in computing the constituent entity’s taxable income in the particular jurisdiction; and

(b) the income tax laws of the particular jurisdiction allow the consumed domestic loss to be recaptured by the constituent entity in subsequent taxation years, by recharacterizing amounts of income of the constituent entity from sources in the particular jurisdiction as amounts in respect of income of the controlled foreign company that are included, under the controlled foreign company tax regime of the particular jurisdiction, in computing the constituent entity’s taxable income in the particular jurisdiction or as amounts of income from another foreign source. (*montant de récupération du report de pertes de remplacement*)

substitute loss carry-forward tax credit, of a constituent entity located in a particular jurisdiction, means a tax credit, or any portion of a tax credit, of the constituent entity that

(a) arises under the income tax laws of the particular jurisdiction in respect of tax paid to the government of a jurisdiction other than the particular jurisdiction by another entity (referred to in this definition as the “controlled foreign company”) located in a jurisdiction other than the particular jurisdiction, in which the constituent entity holds, directly or indirectly, an ownership interest, on income (referred to in this definition as the “attributed controlled foreign company income”) of the controlled foreign company that is included under the controlled foreign company tax regime of the particular jurisdiction for the purposes of determining the constituent entity’s taxable income in the particular jurisdiction;

(b) is not allowed to be used in the particular taxation year in which it arises solely because the income tax laws of the particular jurisdiction require, in determining the constituent entity’s taxable income, that an amount that would be a tax loss of the constituent entity in the absence of the attributed controlled foreign company income in the particular taxation year be offset against the attributed controlled foreign company income in priority to the tax credit, or portion of the tax credit, being used to reduce or eliminate any covered taxes for which the constituent entity would otherwise be liable in respect of the attributed controlled foreign company income under the income tax laws of the particular jurisdiction; and

(c) is, under the income tax laws of the particular jurisdiction, allowed to be used by the constituent entity, in a taxation year following the particular taxation year, to reduce or eliminate any covered taxes for which the constituent entity would otherwise be liable under the income tax laws of the particular jurisdiction in respect of income that is included in computing the constituent entity’s GloBE income or loss. (*crédit d'impôt pour report de pertes de remplacement*)

tax means a compulsory unrequited payment to general government. (*impôt*)

tax transparent entity, in relation to an owner, means

(a) a flow-through entity to the extent that the flow-through entity is fiscally transparent under the laws of the jurisdiction in which the owner is located; or

(b) a constituent entity deemed to be a tax transparent entity under subsection (7). (*entité fiscalement transparente*)

tax transparent structure means a chain of entities through which a particular entity holds an ownership interest, if the entities are

(a) flow-through entities; and

(b) tax transparent entities in relation to the particular entity. (*structure fiscalement transparente*)

tax treaty means an agreement for the avoidance of double taxation with respect to taxes on income and on capital. (*convention fiscale*)

testing period has the meaning assigned in subsection 42(4). (*période de test*)

top-up amount has the meaning assigned in subsection 30(1). (*montant complémentaire*)

top-up percentage has the meaning assigned in subsection 30(3). (*pourcentage complémentaire*)

total deferred tax adjustment amount has the meaning assigned in subsection 25(1). (*montant total de l'ajustement pour impôts différés*)

transition year, of a constituent entity of an MNE group, means the first fiscal year in which

(a) the MNE group is a qualifying MNE group;

(b) if the constituent entity had

(i) a top-up amount greater than nil for the year, or an equivalent amount under a qualified IIR or qualified UTPR of a jurisdiction other than Canada, a constituent entity of the MNE group would be subject to tax under a qualified IIR or qualified UTPR in respect of that top-up amount or equivalent amount, as the case may be, or

(ii) a domestic top-up amount greater than nil for the year, or an equivalent amount under a qualified domestic minimum top-up tax of a jurisdiction other than Canada, a constituent entity of the MNE group would be subject to tax under a qualified domestic minimum top-up tax in respect of that domestic top-up amount or equivalent amount, as the case may be; and

(c) the top-up amount, domestic top-up amount or equivalent amount, as the case may be, of the constituent entity for the year is not deemed to be nil under subsection 44(2) or the equivalent provision in the laws of a jurisdiction other than Canada. (*année de transition*)

transitional special allocation year, of an MNE group, means any fiscal year beginning on or before December 31, 2025 and ending on or before June 30, 2027. (*année de répartition spéciale transitoire*)

UTPR means any law of a jurisdiction that may reasonably be considered to have been enacted with the intention of implementing, in whole or in part, Articles 2.4 to 2.6 of the GloBE model rules. (*RPII*)

ultimate parent entity has the meaning assigned in subsection 12(1). (*entité mère ultime*)

unclaimed accrual, of a constituent entity of an MNE group for a fiscal year, means an increase in a deferred tax liability recorded in the financial accounts of the constituent entity for the fiscal year if

(a) the increase is not expected to reverse on or before the day that is the last day of the fifth fiscal year immediately following the fiscal year; and

(b) the filing constituent entity of the MNE group files a written election, in respect of the fiscal year, under this paragraph

(i) to not include the increase in determining the constituent entity's total deferred tax adjustment amount for the fiscal year, and

(ii) no later than the GIR due-date for the fiscal year. (*accumulation non réclamée*)

undistributed net GloBE income has the meaning assigned in subsection 42(2). (*revenu GloBE net non distribué*)

Interpretation — permanent establishment

(2) In applying any provision of this Act in respect of a constituent entity that is a permanent establishment of a main entity or the main entity, a reference to a “constituent entity” is to be interpreted as a reference to the permanent establishment or the main entity, as the context requires.

Interpretation — flow-through entity

(3) In applying any provision of this Act in respect of a constituent entity that is a flow-through entity or an owner in respect of the flow-through entity, a reference to a “constituent entity” is to be interpreted as a reference to the owner or the flow-through entity, as the context requires.

Interpretation — financial accounts

(4) A reference to financial accounts is to the accounts (which may in some circumstances be hypothetical) that are the basis for determining financial accounting income of a constituent entity.

Interpretation — connected

(5) A person or entity is “connected” with another person or entity if they are “closely related” within the meaning given to that term in Article 5(8) of the OECD Model Tax Convention.

Interpretation — trusts

(6) A reference to a trust shall include an estate, and a reference to a trustee shall include any legal representative of a trust having ownership or control of the trust property of that trust.

Deemed flow-through entity and tax transparent entity

(7) A constituent entity that is not tax resident in any jurisdiction and is not subject to covered taxes or a qualified domestic minimum top-up tax is deemed to be a flow-through entity and a tax transparent entity, to the extent that

(a) it is fiscally transparent under the laws of the jurisdiction where its owners are located;

(b) it does not have a place of business in the jurisdiction where it was created; and

(c) its income, expenditure, profit or loss is not attributable to a permanent establishment.

Location of entities

5 (1) Subject to subsection 6(1), in determining the jurisdiction where an entity, other than a flow-through entity, is located,

(a) if the entity is tax resident in a jurisdiction based on its place of management or creation, or based on similar criteria, it is located in that jurisdiction; and

(b) in any other case, it is located in the jurisdiction where it was created.

Location of flow-through entities

(2) In determining the jurisdiction where a flow-through entity is located,

- (a)** it is located in the jurisdiction where it was created, if
 - (i)** the flow-through entity is the ultimate parent entity of the MNE group, or
 - (ii)** the flow-through entity
 - (A)** is described in paragraph (c) of the definition *relevant parent entity* in subsection 14(3), and
 - (B)** has a direct or indirect ownership interest in at least one constituent entity of the MNE group that
 - (I)** has a top-up amount, and
 - (II)** is not located in the jurisdiction where the flow-through entity was created; and
- (b)** in any other case, it is a stateless entity.

Location of permanent establishments

(3) In determining the jurisdiction where a permanent establishment is located,

- (a)** if the permanent establishment is described in paragraph (a) of the definition *permanent establishment* in subsection 4(1), it is located in the jurisdiction where it is treated as a permanent establishment and is taxed under the applicable tax treaty;
- (b)** if the permanent establishment is described in paragraph (b) of the definition *permanent establishment* in subsection 4(1), it is located in the jurisdiction where it is subject to net basis taxation based on its business presence;
- (c)** if the permanent establishment is described in paragraph (c) of the definition *permanent establishment* in subsection 4(1), it is located in the jurisdiction where it is situated;
- (d)** if the permanent establishment is described in paragraph (d) of the definition *permanent establishment* in subsection 4(1), it is a stateless permanent establishment.

Stateless entity — notional jurisdiction

(4) A stateless entity or permanent establishment is deemed to be located in a notional jurisdiction in which no other entity or permanent establishment is located.

Change of location

(5) If an entity's location changes during a fiscal year, it is treated as located, for the fiscal year, in the jurisdiction where it was located at the beginning of the fiscal year.

Dual-located entity — tie-breaker rule

6 (1) If a constituent entity would, in the absence of this section, be located in more than one jurisdiction for a fiscal year under subsection 5(1), the following rules apply:

- (a)** if the jurisdictions are party to a tax treaty and the constituent entity is deemed to be resident in only one of the jurisdictions for purposes of the treaty, the entity is located in that jurisdiction for the fiscal year; and
- (b)** in any other case,
 - (i)** if the constituent entity has, for the fiscal year, a greater amount of covered taxes (determined without reference to any taxes accrued under a controlled foreign company tax regime) accrued in one of the jurisdictions than in the other jurisdictions, the constituent entity is located in that jurisdiction for the fiscal year,

(ii) if subparagraph (i) does not apply and the constituent entity has a greater substance-based income exclusion amount (determined in accordance with subsection (2)) in one of the jurisdictions than in the other jurisdictions, the constituent entity is located in that jurisdiction for the fiscal year, and

(iii) if neither subparagraph (i) nor (ii) applies, the constituent entity is, for the fiscal year,

(A) if it is an ultimate parent entity of an MNE group, located in the jurisdiction where it was created, and

(B) in any other case, a stateless entity.

Substance-based income exclusion amount

(2) For the purposes of subparagraph (1)(b)(ii), a constituent entity's substance-based income exclusion amount for a jurisdiction for a fiscal year is

(a) if a substance-based income exclusion amount is calculated for the jurisdiction for the fiscal year, the amount that would be determined for that constituent entity under subsection 32(1) if the constituent entity were the only constituent entity located in that jurisdiction and if the reference to "standard constituent entity" in that subsection were read as a reference to "constituent entity"; and

(b) in any other case, nil.

Dual-located entity — deeming rule

(3) If a constituent entity that would, in the absence of subsection (1), be located in more than one jurisdiction (each referred to in this subsection as a "relevant jurisdiction"), is located in only one of those jurisdictions (referred to in this subsection as the "location jurisdiction") because of subsection (1) and is not subject to tax under a qualified IIR in the location jurisdiction,

(a) where Canada is a relevant jurisdiction (but is not the location jurisdiction) and Canada is not restricted from taxing the entity under Part II because of an applicable tax treaty, the entity is deemed to be located in Canada for the purposes of clause 14(1)(b)(i)(B) and subparagraph 14(3)(a)(i); and

(b) where Canada is not a relevant jurisdiction, and the entity is subject to tax in a relevant jurisdiction under a qualified IIR because of a provision under the laws of that relevant jurisdiction that is equivalent in effect to paragraph (a), the entity is deemed to be located in that relevant jurisdiction for the purposes of subsection 14(3).

Currency conversion — GloBE income computation

7 (1) If an amount that is relevant to the computation of the GloBE income or loss of a constituent entity of an MNE group for a fiscal year is denominated in a currency other than the reporting currency of the consolidated financial statements of the ultimate parent entity of the MNE group (referred to in this subsection as the "relevant reporting currency") and is not converted to the relevant reporting currency in the course of preparing the consolidated financial statements, that amount is to be converted to the relevant reporting currency using the foreign currency translation principles of the financial accounting standard that would have been used to convert the amount to the relevant reporting currency if that conversion were undertaken in the course of preparing the consolidated financial statements.

Euro-denominated thresholds

(2) For the purposes of determining if any materiality or other threshold in this Act that is denominated in the currency of the European Monetary Union is satisfied or exceeded by an amount in respect of a group, entity or jurisdiction for a particular fiscal year, if the amount is denominated in another currency, the amount is to be converted from that currency to the currency of the European Monetary Union using the average of the daily rates of exchange, in respect of the two currencies for the month of December included in the fiscal year immediately preceding the particular fiscal year, as quoted by

(a) the European Central Bank;

(b) the Bank of Canada, if the European Central Bank does not quote a daily rate of exchange in respect of the two currencies; or

(c) another source that is acceptable to the Minister, if both the European Central Bank and the Bank of Canada do not quote a daily rate of exchange in respect of the two currencies.

General rule

(3) Except as specifically otherwise provided, if an amount is relevant to a determination or computation that is required for the purposes of this Act in respect of an entity included in an MNE group or in respect of the MNE group for a fiscal year

(a) the currency in which that amount is to be denominated is the reporting currency of the consolidated financial statements of the ultimate parent entity of the MNE group; and

(b) if that amount is not denominated in the reporting currency, it is to be converted, for use in the determination or computation, to the reporting currency using the average for the fiscal year of the daily rates of exchange quoted by the Bank of Canada, or if there is no daily rate quoted by the Bank of Canada for a particular day, a daily rate of exchange acceptable to the Minister, in respect of the two currencies.

Negative amounts

8 Except as specifically otherwise provided, where an amount or a number is required under this Act to be determined or calculated by or in accordance with an algebraic formula, if the amount or number when so determined or calculated would, but for this subsection, be a negative amount or number, it shall be deemed to be nil.

Scope

Qualifying MNE group

9 (1) Subject to subsection (4), a *qualifying MNE group* for a particular fiscal year means an MNE group with revenue reported in the consolidated financial statements of the ultimate parent entity of the MNE group equal to or greater than the revenue threshold of the MNE group in at least two of the four fiscal years immediately preceding the particular fiscal year.

Revenue threshold of an MNE group

(2) The *revenue threshold* of an MNE group for a fiscal year means the amount determined by the formula

$$A \times B/365$$

where

A is €750 million, and

B is the number of days in the fiscal year.

Revenue — pre-merger years

(3) For the purposes of subsections (1) and (4), if an MNE group is formed as a result of a merger in a particular fiscal year between a group, or an entity that is not included in a group immediately before the merger (referred to in this subsection as an “ungrouped entity”), with one or more other groups or ungrouped entities, then for any fiscal year preceding the particular fiscal year (referred to in this subsection as the “preceding year”)

(a) all amounts that are the revenue or a portion of the revenue reported in the consolidated financial statements of the ultimate parent entity of any of those groups or in the financial statements of any of those ungrouped entities, as the case may be, and that correspond to any period included in the preceding year (with the revenue apportioned between periods, where necessary, on a just and reasonable basis) are to be aggregated; and

(b) the aggregate amount determined under paragraph (a) is deemed to be the revenue reported in the consolidated financial statements of the ultimate parent entity of the MNE group for the preceding year.

Qualifying MNE group — demerger

(4) If there is a demerger of an MNE group that was a qualifying MNE group in the fiscal year immediately preceding the demerger and any of the groups resulting from the demerger is an MNE group (referred to in this subsection as a “demerged MNE group”), the demerged MNE group is deemed to be a qualifying MNE group for

(a) the first fiscal year of the demerged MNE group ending after the demerger occurs (referred to in this paragraph as the “first post-demerger year”), if the revenue reported in the consolidated financial statements of the ultimate parent entity of the demerged MNE group for the first post-demerger year is greater than or equal to the amount determined by the formula

$$A \times B/365$$

where

A is €750 million, and

B is the number of days in the first post-demerger year; and

(b) any fiscal year (referred to in this paragraph as the “tested year”) among the three fiscal years of the demerged MNE group immediately following the first post-demerger year, if the revenue reported in the consolidated financial statements of the ultimate parent entity of the demerged MNE group for at least two out of the tested year and any other fiscal years of the demerged MNE group ending before the tested year and after the demerger (the tested year and each of those other years referred to in this paragraph as a “post-demerger year”) is greater than or equal to the amount determined by the formula

$$A \times C/365$$

where

C is the number of days in the post-demerger year.

Merger — meaning

(5) For the purposes of subsection (3), a merger is any arrangement whereby

(a) all or substantially all of the entities of two or more groups are brought under common control such that those entities form a single group immediately following the conclusion of the arrangement; or

(b) one or more entities that are not included in any group are brought under common control with another entity, or one or more groups of entities, such that all those entities form a single group immediately following the conclusion of the arrangement.

Demerger — meaning

(6) For the purposes of subsection (4), a demerger is any arrangement whereby the entities of a group are separated into two or more groups.

Interpretation — fiscal year

(7) For the purposes of subsection (3), references to fiscal years of an MNE group (other than the fiscal year referred to in subsection (3) as the “particular fiscal year”) shall be read as references to the contiguous periods, of equal length to the particular fiscal year, preceding the particular fiscal year, the last of which immediately precedes the particular fiscal year.

MNE group — meaning

10 (1) An *MNE group* means any group that includes at least one entity or permanent establishment that is not located in the jurisdiction in which the ultimate parent entity of the group is located.

Group — meaning

(2) A *group* means

(a) an ultimate parent entity and one or more other entities each of whose assets, liabilities, income, expenses and cash flows, by reason of ownership or control, either

(i) are included in the consolidated financial statements of the ultimate parent entity, or

(ii) would be included in the consolidated financial statements of the ultimate parent entity but for an exclusion on size or materiality grounds, or on the grounds that the entity is held for sale; or

(b) an entity that

(i) is not part of a group described in paragraph (a), and

(ii) has one or more permanent establishments that are not located in the jurisdiction in which the entity is located.

Constituent entity — meaning

11 (1) A *constituent entity* in respect of a group means

(a) any entity, other than an excluded entity, that is included in the group; or

(b) any permanent establishment of a main entity that is described in paragraph (a).

Permanent establishment — separate treatment

(2) Except as expressly otherwise provided, for the purposes of this Act a permanent establishment that is a constituent entity under paragraph (1)(b) is treated as a constituent entity separate from the main entity referred to in paragraph (1)(b) and any other permanent establishment of that main entity.

Standard constituent entity — meaning

(3) A *standard constituent entity* of an MNE group means a constituent entity other than

(a) an investment entity;

(b) an insurance investment entity; or

(c) a minority-owned constituent entity.

Ultimate parent entity — meaning

12 (1) An *ultimate parent entity* means

(a) an entity

(i) that has, directly or indirectly, a controlling interest in any other entity, and

(ii) in which no other entity has, directly or indirectly, a controlling interest; or

(b) the main entity of a group that is described in paragraph 10(2)(b).

Exclusion — sovereign wealth funds

(2) For the purposes of subsection (1), any governmental entity that satisfies the condition in subparagraph (b)(ii) of the definition *governmental entity* in subsection 4(1) is deemed not to have, directly or indirectly, a controlling interest in any other entity.

Excluded entity — meaning

13 (1) An *excluded entity* for a fiscal year means

(a) an entity (referred to in this subsection as a “primary excluded entity”) that is throughout the fiscal year

(i) a governmental entity,

(ii) an international organization,

(iii) a non-profit organization,

(iv) a pension fund,

(v) an investment fund that is an ultimate parent entity, or

(vi) a real estate investment vehicle that is an ultimate parent entity;

(b) an entity if

(i) throughout the fiscal year ownership interests in the entity having a fair market value equal to at least 95% of the fair market value of all ownership interests in the entity are held directly, or indirectly through one or more excluded entities, by one or more primary excluded entities (other than a pension fund that is a pension services entity), and

(ii) all or substantially all the activities of the entity during the fiscal year consist of

(A) holding assets for the benefit of the one or more primary excluded entities,

(B) investing funds for the benefit of the one or more primary excluded entities,

(C) activities that are ancillary to those carried out by the one or more primary excluded entities, or

(D) any combination of the foregoing; or

(c) an entity if

(i) throughout the fiscal year ownership interests in the entity having a fair market value equal to at least 85% of the fair market value of all ownership interests in the entity are held directly, or indirectly through one or more excluded entities, by one or more primary excluded entities (other than a pension fund that is a pension services entity), and

(ii) all or substantially all of the entity’s financial accounting income for the fiscal year is comprised of excluded dividends or excluded equity gains or losses.

Excluded entity — constituent entity election

(2) For the purposes of subsection (1), if the relevant filing constituent entity elects under this subsection in respect of a particular entity that would, in the absence of this subsection, be an excluded entity described in paragraph (1)(b) or (c) for a fiscal year

(a) the particular entity is deemed not to be an excluded entity for the fiscal year; and

(b) the election is a five-year election.

PART II

Global Minimum Tax

DIVISION A

Liability for Tax

Top-up tax payable

14 (1) A person must pay a tax in respect of an MNE group for a fiscal year in the amount determined under subsection 15(1), if

- (a) the MNE group is a qualifying MNE group for the fiscal year;
- (b) one of the following conditions is met:
 - (i) the person is
 - (A) a relevant parent entity of the MNE group for the fiscal year, and
 - (B) located in Canada at any time in the fiscal year, or
 - (ii) the person would, under the relevant assumptions, include in its income for the purposes of Part I of the *Income Tax Act* income for the fiscal year of a relevant parent entity that is
 - (A) located in Canada, and
 - (B) not a person; and
- (c) the relevant parent entity referred to in subparagraph (b)(i) or (ii) has a direct or indirect ownership interest at any time in the fiscal year in one or more constituent entities of the MNE group that
 - (i) is not located in Canada, and
 - (ii) has a top-up amount for the fiscal year.

Relevant assumptions

(2) For the purposes of subparagraph 14(1)(b)(ii), the relevant assumptions are that

- (a) the relevant parent entity referred to in that subparagraph has income for the fiscal year that would be included in computing its income for the purposes of Part I of the *Income Tax Act* if it were a person resident in Canada; and
- (b) the person referred to in that subparagraph is resident in Canada for the purposes of the *Income Tax Act*.

Relevant parent entity — meaning

(3) A **relevant parent entity**, of an MNE group for a fiscal year, means an entity that meets all of the following conditions at any time in the fiscal year:

- (a) the entity is located in
 - (i) Canada, or
 - (ii) another jurisdiction where it is subject to tax under a qualified IIR (referred to in this subsection as a “Pillar Two jurisdiction”);

(b) the entity is neither

(i) an excluded entity for the purposes of this Act, nor

(ii) excluded from the application of the qualified IIR of the jurisdiction where it is located because of a provision in the law of that jurisdiction equivalent to subsection 13(1); and

(c) the entity is any of the following:

(i) the ultimate parent entity of the MNE group for the year,

(ii) a particular intermediate parent entity of the MNE group for the year, if

(A) the ultimate parent entity of the MNE group is not located in Canada or a Pillar Two jurisdiction, and

(B) no other intermediate parent entity of the MNE group that is located in Canada or a Pillar Two jurisdiction has, directly or indirectly, a controlling interest in the particular intermediate parent entity, or

(iii) a particular partially-owned parent entity of the MNE group for the year that is not wholly owned, directly or indirectly, by another partially-owned parent entity of the MNE group located in Canada or a Pillar Two jurisdiction.

Amount of top-up tax payable

15 (1) The amount of the tax a person must pay in respect of an MNE group for a fiscal year under subsection 14(1) is equal to the total of all amounts, each of which is an amount determined by the formula

$$A - B$$

where

A is the allocable share of the top-up amount of a constituent entity of the MNE group that is not located in Canada for the fiscal year, of

(a) the person, if subparagraph 14(1)(b)(i) applies; or

(b) the relevant parent entity referred to in subparagraph 14(1)(b)(ii), if subparagraph 14(1)(b)(ii) applies, and

B is the allocable share of the top-up amount of the constituent entity for the fiscal year, of a particular entity, if

(a) the person referred to in paragraph (a) or relevant parent entity referred to in paragraph (b) in the description of A holds its ownership interest in the constituent entity indirectly through the particular entity; and

(b) the particular entity is a relevant parent entity of the MNE group.

Allocable share

(2) The *allocable share*, of the top-up amount of a constituent entity of an MNE group for a fiscal year, of a relevant parent entity, means the amount determined by the formula

$$A \times B$$

where

A is the top-up amount of the constituent entity for the fiscal year, and

B is the relevant parent entity's inclusion ratio for the constituent entity for the fiscal year.

Inclusion ratio

(3) The *inclusion ratio*, of a relevant parent entity for a constituent entity of an MNE group for a fiscal year, means the ratio determined by the formula

$$(A - B)/A$$

where

- A** is the GloBE income of the constituent entity for the fiscal year; and
- B** is the GloBE income of the constituent entity for the fiscal year that would be attributable to ownership interests other than ownership interests held directly or indirectly by the relevant parent entity, under the principles of the financial accounting standard applicable in preparing the consolidated financial statements of the ultimate parent entity of the MNE group for the fiscal year, if the net income of the constituent entity were equal to its GloBE income and on the assumption that
 - (a)** the relevant parent entity had prepared consolidated financial statements (referred to in this subsection as “hypothetical consolidated financial statements”) in accordance with that financial accounting standard,
 - (b)** the relevant parent entity had a controlling interest in the constituent entity such that all of the income and expenses of the constituent entity were consolidated on a line-by-line basis with those of the relevant parent entity in the hypothetical consolidated financial statements,
 - (c)** none of the GloBE income of the constituent entity was attributable to transactions with group entities of the MNE group, and
 - (d)** no ownership interest, other than those held directly or indirectly by the relevant parent entity, was held by any group entity of the MNE group.

Inclusion ratio — flow-through entities

(4) For the purposes of subsection (3), if a constituent entity of an MNE group is a flow-through entity, none of the GloBE income of the constituent entity is to be regarded as attributable to ownership interests held by any entity that is not included in the MNE group.

Inclusion ratio — deemed GloBE income

(5) For the purposes of subsection (3), if the net GloBE income of the MNE group for a jurisdiction for a fiscal year is nil, the GloBE income of a constituent entity of the MNE group located in the jurisdiction for the fiscal year is deemed to be the amount determined by the formula

$$A + B$$

where

A is the amount determined by the formula

$$C \div D$$

where

C is the allocated adjustment top-up amount of the constituent entity for the fiscal year, and

D is the minimum rate; and

B is the amount determined by the formula

$$E \div D$$

where

E is the excess negative tax expense top-up amount of the constituent entity for the fiscal year.

DIVISION B

Computation of GloBE income or loss

GloBE income or loss — meaning

16 GloBE income or loss, of a constituent entity for a fiscal year, means the constituent entity’s financial accounting income for the year, adjusted according to the rules in this Division and Divisions E and G.

SUBDIVISION A

Determination of Financial Accounting Income

Financial accounting income — meaning

17 (1) *Financial accounting income*, for a constituent entity for a fiscal year, means

(a) for a constituent entity other than a permanent establishment, the net income or loss determined for that constituent entity

(i) in the preparation of the consolidated financial statements of the ultimate parent entity of the MNE group that includes the constituent entity, or

(ii) under another acceptable financial accounting standard or authorized financial accounting standard, if

(A) it is not reasonably practicable to determine the financial accounting income for the constituent entity based on the accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity,

(B) the financial accounts of the constituent entity are maintained based on the other acceptable financial accounting standard or authorized financial accounting standard,

(C) the information in those financial accounts is reliable, such that an auditor applying the generally accepted auditing standards of the relevant jurisdiction would reasonably conclude that the constituent entity has in place processes and controls that are likely to ensure that the information in the financial accounts is fair and accurate, and

(D) that amount is adjusted to eliminate any permanent difference greater than €1 million that arises for the fiscal year because the other financial accounting standard is used instead of the financial accounting standard of the ultimate parent entity; and

(b) for a constituent entity that is a permanent establishment, subject to subsections (2) and (3),

(i) if the permanent establishment is described in any of paragraphs (a) to (c) of the definition *permanent establishment* in subsection 4(1), the amount that

(A) is the net income or loss reflected in the separate financial accounts of the permanent establishment, if those financial accounts are prepared in accordance with an acceptable financial accounting standard, or in accordance with an authorized financial accounting standard and subject to adjustments to prevent any material competitive distortions, or

(B) if the permanent establishment does not have separate financial accounts described in clause (A), would be the net income or loss of that permanent establishment reflected in separate financial accounts prepared on a standalone basis in accordance with the accounting standard used in the preparation of the ultimate parent entity's consolidated financial accounts, and

(ii) if the constituent entity is a permanent establishment described in paragraph (d) of the definition *permanent establishment* in subsection 4(1), the net income or loss determined on the assumption that

(A) the only income of the permanent establishment is its income that is exempted from tax in the jurisdiction where the main entity in respect of the permanent establishment is located and that is attributable to activities carried on outside the jurisdiction in which the main entity is located, and

(B) the only expenses of the permanent establishment are its expenses that are attributable to the activities described in clause (A) and are not deducted for tax purposes in the jurisdiction in which the main entity is located.

Permanent establishments — adjustment

(2) The amount that would, in the absence of this subsection, be a permanent establishment's financial accounting income is adjusted to reflect only the amounts of income and expense that are — or, where paragraph (c) applies, would be — attributable to the permanent establishment (regardless of whether such amount is subject to tax or deductible, as the case may be, in the jurisdiction in which the permanent establishment is located) in accordance with

- (a)** if paragraph (a) of the definition *permanent establishment* in subsection 4(1) applies, the tax treaty applicable to the permanent establishment;
- (b)** if paragraph (b) of the definition *permanent establishment* in subsection 4(1) applies, the law of the jurisdiction in which the permanent establishment is located; or
- (c)** if paragraph (c) of the definition *permanent establishment* in subsection 4(1) applies, Article 7 of the OECD Model Tax Convention.

Permanent establishments — general rule

(3) Except as provided by subsection 18(24), the net income or loss of a permanent establishment (other than any portion of that amount that is excluded from the financial accounting income of the permanent establishment because of subsection (2)) is not to be taken into account in determining the GloBE income or loss of the main entity in respect of the permanent establishment.

No consolidation adjustments

(4) Financial accounting income of a constituent entity shall include income, expenses, gains and losses arising from transactions between the constituent entity and any other group entity, other than any transactions to which an election under subsection 18(22) applies.

Profit and loss statement — general rule

(5) Unless otherwise required under this Act, no amount is included in computing GloBE income or loss if it is recognized outside of the profit and loss statement of the constituent entity's financial accounting income.

Financial accounting income — flow-through entity

(6) If a constituent entity is a particular flow-through entity, the following rules apply in determining the financial accounting income for a fiscal year of the particular flow-through entity and any other group entities in respect of the net income or loss of the particular flow-through entity:

- (a)** an amount in respect of the particular flow-through entity's net income or loss that is allocable to owners that are not group entities and that hold their ownership interests in the particular flow-through entity directly, or through a tax transparent structure, is not to be included in computing the financial accounting income of any group entity, unless
 - (i)** the particular flow-through entity is an ultimate parent entity, or
 - (ii)** the particular flow-through entity is owned, directly or through a tax transparent structure, by an ultimate parent entity that is also a flow-through entity, in which case this paragraph does not apply to an amount in respect of the particular flow-through entity's net income or loss to the extent that amount is allocable to owners that hold their ownership interests in the particular flow-through entity through that ultimate parent entity;
- (b)** if a particular group entity has an ownership interest in the particular flow-through entity, an amount that, in the absence of this paragraph — and, for greater certainty, after excluding amounts to which paragraph (a) applies and amounts allocated to a permanent establishment in accordance with paragraph (1)(b) — would be included in the financial accounting income of the particular flow-through entity is excluded from its financial accounting income and included in the financial accounting income of the particular group entity in accordance with the particular group entity's ownership interest in the particular flow-through entity, to the extent that
 - (i)** the particular flow-through entity is not an ultimate parent entity,

- (ii) the particular flow-through entity is a tax transparent entity in relation to the particular group entity,
 - (iii) the particular group entity is
 - (A) not a flow-through entity, or
 - (B) a reverse hybrid entity, and
 - (iv) the particular group entity holds its ownership interest in the particular flow-through entity
 - (A) directly, or
 - (B) indirectly, through one or more entities (each referred to in this clause as an “intermediate owner”), if
 - (I) each intermediate owner is a tax transparent entity in relation to the particular group entity,
 - (II) where the particular group entity is a not a flow-through entity, there is no intermediate owner that both
 - 1 is not a flow-through entity, and
 - 2 would meet the conditions in subparagraphs (ii) and (iv) if the references in those subparagraphs to the “particular group entity” were read as references to that intermediate owner, and
 - (III) where the particular group entity is a reverse hybrid entity, there is no intermediate owner that would meet the conditions in subparagraphs (ii) to (iv) if the references in those subparagraphs to the “particular group entity” were read as references to that intermediate owner;
- (c) notwithstanding paragraph (b), if an amount of the net income or loss of the particular flow-through entity would, in the absence of this paragraph, be included under paragraph (b) in the financial accounting income of a particular group entity (referred to in this paragraph as the “lower-tier entity”) that is a reverse hybrid entity, and would also be included in the financial accounting income of another group entity (referred to in this paragraph as the “upper-tier entity”), that is not a flow-through entity, in relation to an ownership interest the upper-tier entity holds in the particular flow-through entity through the lower-tier entity, the amount shall be
- (i) included in the financial accounting income of the upper-tier entity, and
 - (ii) not included in the financial accounting income of the lower-tier entity; and
- (d) any amount of the net income or loss of the particular flow-through entity that is not excluded in computing its financial accounting income because of paragraph (a) or (b), or subsection (3), is included in the financial accounting income of the particular flow-through entity.

SUBDIVISION B

Adjustments in Computing GloBE Income or Loss

Net tax expense

18 (1) An amount is included or excluded, as the case may be, in computing GloBE income or loss of a constituent entity for a fiscal year in order to reverse any debits or credits in the constituent entity’s financial accounting income in respect of

- (a) covered taxes (including, for greater certainty, any covered tax in respect of income that is excluded from the computation of GloBE income or loss);
- (b) to the extent it is not included in paragraph (a), any deferred tax asset attributable to a loss for the fiscal year;
- (c) any tax under an IIR or UTPR;

- (d) any tax under a qualified domestic minimum top-up tax;
- (e) any tax paid or accrued by an insurance company in respect of returns to policyholders; or
- (f) any disqualified refundable imputation tax.

Purchase accounting adjustments

(2) GloBE income or loss, of a constituent entity for a fiscal year, excludes amounts in respect of any purchase accounting adjustment reflected in the consolidated financial statements of the ultimate parent entity or the constituent entity's financial accounts, arising as a result of an entity becoming a group entity as a result of the acquisition of shares of the capital stock of that entity by an existing group entity, unless

- (a) the acquisition occurs before December 1, 2021; and
- (b) it is not reasonably practicable to determine the constituent entity's financial accounting income in the absence of the adjustment.

Excluded dividends

(3) In computing the GloBE income or loss, of a constituent entity for a fiscal year, the following rules apply in respect of excluded dividends:

- (a) the constituent entity's GloBE income or loss for the fiscal year excludes any excluded dividends received or accrued by the constituent entity in the fiscal year; and
- (b) if the filing constituent entity elects in respect of the constituent entity under this paragraph for a fiscal year,
 - (i) for the purposes of this subsection and the definition *excluded dividends*, all portfolio holdings of the constituent entity are deemed to be short-term portfolio holdings, and
 - (ii) the election is a five-year election.

Excluded equity gains and losses

(4) In computing the GloBE income or loss of a constituent entity for a fiscal year, the constituent entity's GloBE income or loss excludes any excluded equity gain or loss of the constituent entity for the fiscal year.

Insurance reserves

(5) If a constituent entity is an insurance company, any expense in respect of the movement of insurance reserves of the entity is excluded in computing that entity's GloBE income or loss for the fiscal year to the extent that the movement is economically matched by

- (a) excluded dividends, net of any investment management fees; or
- (b) excluded equity gains or losses.

Hedging currency risk — election

(6) If the filing constituent entity elects, in respect of a particular constituent entity for a fiscal year, the following rules apply:

- (a) any amount, in respect of a foreign exchange gain or loss, that is included in the particular constituent entity's financial accounting income for a fiscal year is deemed to be an excluded equity gain or loss of the particular constituent entity for the year, to the extent that
 - (i) the gain or loss is
 - (A) in respect of a hedging instrument that hedges currency risk in respect of ownership interests (other than portfolio holdings) held by the particular constituent entity or another group entity, and

(B) recognized in other comprehensive income in the consolidated financial statements,

(ii) the hedging instrument is an effective hedge under the authorized financial accounting standard used in the preparation of the consolidated financial statements, and

(iii) the economic and accounting effect of the hedging instrument

(A) has not been transferred to another entity, if the particular constituent entity holds the hedging instrument, or

(B) has been transferred to the particular constituent entity, if the particular constituent entity does not hold the hedging instrument; and

(b) the election is a five-year election.

Equity gain or loss inclusion — election

(7) If the filing constituent entity elects, in respect of the group entities of the MNE group located in a jurisdiction, to include excluded equity gains or losses in computing GloBE income or loss, the following rules apply:

(a) notwithstanding subsection (4), the GloBE income or loss of a group entity located in the jurisdiction includes an excluded equity gain or loss of the entity for the year to the extent that

(i) all of the following conditions are met:

(A) the gain or loss is subject to covered taxes (as a taxable gain or allowable loss) in the jurisdiction,

(B) the tax consequences of the taxable gain or allowable loss are reflected in the income tax expense in the group entity's financial accounts, and

(C) in the case of a gain from a disposition of an ownership interest, the gain is not excluded, reduced, offset or otherwise effectively sheltered from tax under local law by reason of any exemption, exclusion, deduction, credit or other form of relief specific to the type of gain,

(ii) in the case of a gain or loss described in paragraph (a) of the definition *excluded equity gain or loss* that is not subject to covered taxes in the jurisdiction,

(A) gains or losses on the disposition of the ownership interest are subject to covered taxes in the jurisdiction, and

(B) the income tax expense in the group entity's financial accounts includes deferred tax expense in respect of the changes in fair value or impairments, and

(iii) the gain or loss is in respect of an ownership interest that is not a qualified flow-through ownership interest (within the meaning of subsection 28(1));

(b) the election is a five-year election; and

(c) if the election is revoked, the revocation is not effective in respect of a particular ownership interest where a loss in respect of that particular ownership interest is included in computing a group entity's GloBE income or loss because of this subsection.

Included revaluation method gain or loss

(8) GloBE income or loss, of a constituent entity for a fiscal year, includes any included revaluation method gain or loss of the constituent entity.

Asymmetric foreign currency gains and losses

(9) If a constituent entity's accounting functional currency is different from its tax functional currency, the constituent entity's GloBE income or loss for a fiscal year

(a) includes a particular amount of income or loss to the extent that

(i) the particular amount is

(A) attributable to fluctuations in the exchange rate between the accounting functional currency and tax functional currency,

(B) included in the computation of the constituent entity's income for tax purposes, and

(C) not included in the constituent entity's financial accounting income, or

(ii) the particular amount is

(A) attributable to fluctuations in the exchange rate between the tax functional currency and another currency that is not the accounting functional currency, and

(B) not included in the constituent entity's financial accounting income (whether or not the particular amount is included in the constituent entity's income for tax purposes); and

(b) excludes a particular amount of income or loss to the extent that

(i) the particular amount is

(A) attributable to fluctuations in the exchange rate between the accounting functional currency and tax functional currency,

(B) included in the constituent entity's financial accounting income, and

(C) not included in the computation of the constituent entity's income for tax purposes, or

(ii) the particular amount is

(A) attributable to fluctuations in the exchange rate between the accounting functional currency and another currency that is not the tax functional currency,

(B) included in the constituent entity's financial accounting income, and

(C) not included in the computation of the constituent entity's income for tax purposes.

Policy disallowed expenses

(10) GloBE income or loss, of a constituent entity for a fiscal year, excludes

(a) expenses accrued by the constituent entity for illegal payments, including bribes and kickbacks;

(b) an expense accrued by the constituent entity for a fine or penalty equal to or greater than €50,000 (or an equivalent amount in the functional currency in which the constituent entity's financial accounting income was calculated); or

(c) expenses accrued by the constituent entity for fines or penalties, the total of which amounts is equal to or greater than €50,000, if the fines or penalties are accrued in respect of the same conduct, or for continuing conduct.

Prior period errors and changes in accounting principles

(11) If there has been a change in the opening equity of a constituent entity at the start of a fiscal year, the constituent entity's GloBE income or loss for the fiscal year includes the amount of that change if the change is attributable to

- (a)** a correction of an error in the accounts for a previous fiscal year that affected the income or expenses included in the computation of GloBE income or loss for that year, except to the extent the correction of that error resulted in a material decrease to a liability for covered taxes subject to paragraph 27(1)(b); or
- (b)** a change in accounting principle or policy that affects income or expenses included in the computation of GloBE income or loss.

Accrued pension expense

(12) GloBE income or loss, of a constituent entity for a fiscal year, includes the positive or negative amount determined by the formula

$$(A + B) \times (-1)$$

where

A is

- (a)** the amount, expressed as a negative number, that is accrued, in the constituent entity's financial accounting income for the fiscal year, as pension liability expense in respect of a pension fund; or
- (b)** the amount that is accrued, in the constituent entity's financial accounting income for the fiscal year, as income in respect of a pension fund, and

B is the amount of pension contributions made by the constituent entity to the pension fund in the fiscal year.

Arm's length requirement — certain transactions

(13) GloBE income or loss of a particular constituent entity of an MNE group for a fiscal year is to be adjusted to ensure that a transaction is reflected in accordance with the arm's length principle if

- (a)** the particular constituent entity is party to the transaction with another constituent entity of the MNE group located in the same jurisdiction;
- (b)** either
 - (i)** the recorded value of the transaction is not the same in each of the constituent entities' financial accounts, or
 - (ii)** the transaction is not recorded, in the particular constituent entity's financial accounts, in accordance with the arm's length principle; and
- (c)** where subparagraph (b)(ii) applies, any of the following conditions is met:
 - (i)** only one of the constituent entities is a minority-owned constituent entity,
 - (ii)** only one of the constituent entities is an investment entity or insurance investment entity, or
 - (iii)** the transaction is a sale or other transfer of an asset that results in a loss that is included in computing the GloBE income or loss of one of the constituent entities for the fiscal year.

Arm's length requirement — accounting and tax

(14) If a transaction between two or more constituent entities of an MNE group (referred to in this subsection as the "counterparties") that are not located in the same jurisdiction is not recorded in the same amount, not recorded in accordance with the arm's length principle or not recorded at all in the financial accounts of the counterparties for a fiscal year

(a) the GloBE income or loss of each of the counterparties shall be adjusted to reflect the amount determined in respect of the transaction in computing the counterparties' incomes for tax purposes, if

(i) as a result of transfer pricing adjustments, a permanent difference arises for each counterparty in respect of the transaction, and

(ii) the permanent difference for each counterparty corresponds to the permanent difference for the other counterparty; or

(b) the GloBE income or loss of each of the counterparties shall be adjusted to reflect the amount determined, as a result of a transfer pricing adjustment, in respect of the transaction in computing the income for tax purposes of one of the counterparties (referred to in this paragraph as the "high-tax entity"), if

(i) as a result of the transfer pricing adjustment, a permanent difference arises for the high-tax entity in respect of the transaction but does not arise for the other counterparty, and

(ii) the following conditions are met:

(A) the high-tax entity is located in a jurisdiction that has a nominal tax rate that equals or exceeds the minimum rate, and

(B) the effective tax rate of the MNE group for the jurisdiction equals or exceeds the minimum rate in at least one of the two fiscal years immediately preceding the fiscal year.

Refundable tax credits

(15) In computing the GloBE income or loss of a constituent entity for a fiscal year,

(a) the amount of a qualifying refundable tax credit is treated as income; and

(b) the amount of a non-qualified refundable tax credit is not treated as income.

Anti-avoidance — intra-group financing arrangements

(16) GloBE income or loss of a constituent entity that is a low-tax entity for a fiscal year excludes any expense that is attributable to an intra-group financing arrangement that can reasonably be expected, over the duration of the arrangement,

(a) to increase the amount of expenses taken into account in computing the GloBE income or loss of the low-tax entity; and

(b) not to result in a corresponding increase in the income for tax purposes of a high-tax counterparty for the fiscal year, including because an amount received or receivable in respect of the arrangement by the high-tax constituent entity can reasonably be considered to be excluded, reduced, offset or otherwise effectively sheltered from tax under local law by reason of any exemption, exclusion, deduction, credit or other form of relief.

Insurance companies

(17) If a constituent entity is an insurance company, the constituent entity's GloBE income or loss for a fiscal year

(a) excludes any amount that is

(i) included in the constituent entity's financial accounting income for the fiscal year, and

(ii) in respect of a charge to policyholders for taxes paid by the constituent entity in respect of returns to the policyholders, to the extent an amount is included in computing the constituent entity's GloBE income or loss under paragraph 18(1)(e); and

(b) includes returns to policyholders that are not reflected in the constituent entity's financial accounting income for the fiscal year, to the extent that a corresponding increase or decrease in liability to policyholders is reflected in its financial accounting income.

Qualifying tier one capital

(18) In computing the GloBE income or loss of a constituent entity for a fiscal year,

(a) if an amount is recognized as a decrease to the equity of the constituent entity attributable to a distribution paid or payable in respect of qualifying tier one capital issued by the constituent entity, the amount is treated as an expense; and

(b) if an amount is recognized as an increase to the equity of the constituent entity attributable to distributions received or receivable in respect of qualifying tier one capital held by the constituent entity, the amount is treated as income.

Stock-based compensation expense — election

(19) If a filing constituent entity elects under this subsection, in respect of the costs or expenses of the group entities located in a jurisdiction that were paid with stock-based compensation (referred to in this subsection as “stock-based compensation expenses”), the following rules apply:

(a) the election is a five-year election;

(b) in computing the GloBE income or loss of each group entity located in that jurisdiction for a fiscal year to which the election applies, the amount allowed as a deduction in respect of any stock-based compensation expense in computing that entity's income for tax purposes under the law of that jurisdiction for a local taxation year ending in the fiscal year is to be substituted for the amount of that stock-based compensation expense reflected as an expense in that entity's financial accounting income for that fiscal year;

(c) in computing the GloBE income or loss of each group entity located in that jurisdiction for any fiscal year to which the election applies, the group entity is to include as income an amount equal to the total of all amounts, each of which is a stock-based compensation expense that

(i) arose in respect of an option that expires without exercise in the fiscal year, and

(ii) was allowed as an expense in computing the GloBE income or loss of the group entity in accordance with the election for a prior fiscal year;

(d) if the election applies with respect to stock-based compensation expense arising from a transaction, and any amount in respect of the stock-based compensation expense arising from that transaction was reflected in the financial accounting income of a group entity for a fiscal year preceding the first fiscal year to which the election applies, in computing GloBE income or loss of that group entity for that first fiscal year, the amount determined by the following formula is to be included as income

$$A - B$$

where

A is the total of all amounts, each of which is an amount in respect of stock-based compensation expense arising from that transaction that was allowed as an expense in computing the group entity's GloBE income or loss for a fiscal year preceding the first fiscal year, and

B is the total of all amounts, each of which is the amount in respect of that stock-based compensation expense that would have been allowed as an expense in the computation of GloBE income or loss of the group entity for a fiscal year preceding the first fiscal year, if the election had applied to that preceding fiscal year; and

(e) if the election is revoked, and any options in respect of any stock-based compensation to which the election applied have not been exercised — and the exercise period has not yet ended — before the revocation year, in computing

GloBE income or loss of a group entity located in the jurisdiction for the revocation year, the amount determined by the following formula is to be included as income

$$A - B$$

where

- A** is the total of all amounts, each of which is an amount in respect of that stock-based compensation expense allowed as an expense in computing the GloBE income or loss of the group entity in accordance with the election for a fiscal year preceding the revocation year, and
- B** is the total of all amounts, each of which is the amount in respect of that stock-based compensation that accrued as an expense in the group entity's financial accounts, and would have been allowed as an expense in computing the group entity's GloBE income or loss if the election had not applied, for a fiscal year preceding the revocation year.

Fair value and impairment accounting — election

(20) If a filing constituent entity elects under this subsection, in respect of a jurisdiction, to determine gains and losses using the realization principle for the purpose of computing GloBE income or loss for a fiscal year, the following rules apply:

- (a)** the election is a five-year election;
- (b)** the election applies to
 - (i)** all entities that are
 - (A)** if the filing constituent entity specifies in the election that it is to apply only to investment entities, group entities that are investment entities located in the jurisdiction, and
 - (B)** in any other case, group entities located in the jurisdiction, and
 - (ii)** all assets and, if clause (B) applies, all liabilities that are
 - (A)** if the filing constituent entity specifies in the election that it is to apply only to tangible assets, tangible assets subject to fair value accounting or impairment accounting, and
 - (B)** in any other case, assets and liabilities subject to fair value accounting or impairment accounting;
- (c)** if the election applies to a constituent entity for a fiscal year
 - (i)** gains or losses attributable to fair value or impairment accounting with respect to assets or liabilities to which the election applies are excluded in computing GloBE income or loss of the constituent entity for the fiscal year, and
 - (ii)** for the purpose of determining a gain or loss in respect of an asset or liability that is subject to the election, the carrying value of the asset or liability is its carrying value at the later of
 - (A)** the beginning of the first fiscal year to which the election applies, and
 - (B)** the date on which the asset was acquired or the liability was incurred; and
- (d)** if the election is revoked and a constituent entity to which the election applied holds an asset or liability to which the election applied at the beginning of the revocation year, the constituent entity's GloBE income or loss for the revocation year includes the positive or negative amount determined by the formula

$$A - B$$

where

- A** is the fair value of the asset or liability at the beginning of the revocation year, and

B is the carrying value of the asset or liability as determined under subparagraph (c)(ii).

Aggregate asset gain — election

(21) If the filing constituent entity elects under this subsection in respect of the aggregate asset gain for a fiscal year (referred to in this subsection as the “election year”) of the constituent entities of the MNE group located in a particular jurisdiction (each referred to in this subsection as a “local entity”), the following rules apply:

(a) covered taxes with respect to any net asset gain or net asset loss of a local entity in the election year shall be excluded in computing adjusted covered taxes;

(b) GloBE income or loss of local entities for the election year

(i) excludes any amounts allocated to local entities under paragraph (d) or (e) (other than any amount allocated to the election year under paragraph (e)), and

(ii) includes any amounts allocated to the election year under paragraph (e);

(c) for the purposes of subsection 31(1), GloBE income or loss, of a local entity for a fiscal year, is adjusted as follows:

(i) an amount allocated to a local entity under paragraph (d) for a fiscal year reduces the entity’s net asset loss for that year, and

(ii) an amount allocated to a local entity under paragraph (e) for a fiscal year is included as income for that year;

(d) amounts in respect of the aggregate asset gain are carried back to loss years within the look-back period, in order from the earliest loss year to the latest loss year, and allocated to the local entities for those loss years, with the amount allocated to any particular local entity for any particular loss year being determined by the formula

$$A \times B/C$$

where

A is the lesser of

(i) the aggregate asset loss of local entities for the particular loss year, less the total of the amounts, if any, already allocated to those entities for that particular year under this paragraph because of a previous election under this subsection, and

(ii) the aggregate asset gain, less the total of the amounts, if any, allocated in respect of that gain under this paragraph to local entities for a preceding loss year,

B is the particular local entity’s net asset loss for the particular loss year, and

C is the total of all amounts, each of which is the net asset loss of a local entity for the particular loss year; and

(e) if any amount of the aggregate asset gain remains after reducing it by the total of the amounts in respect of the aggregate asset gain allocated to local entities under paragraph (d), that remainder is allocated evenly to each fiscal year in the look-back period (each referred to in this paragraph as a “look-back year”), with the amount that is allocated to a particular local entity for a particular look-back year being determined by the formula

$$A/5 \times B/C$$

where

A is the aggregate asset gain, less the total of the amounts in respect of that aggregate asset gain allocated to local entities under paragraph (d),

B is

(i) if no local entity has a net asset gain for the particular look-back year, 1, and

(ii) in any other case, the particular local entity’s net asset gain for the particular look-back year,

C is

- (i) if subparagraph (i) of B applies, the total number of local entities for the particular look-back year, and
- (ii) if subparagraph (ii) of B applies, the total of all amounts, each of which is the net asset gain of a local entity for the particular look-back year.

Tax consolidation group — election

(22) If a filing constituent entity elects under this subsection in respect of the standard constituent entities of an MNE group that are located in a particular jurisdiction and included in a tax consolidated group (each referred to in this subsection as a “relevant local entity”), the following rules apply:

- (a) the financial accounting income of the relevant local entities is adjusted for a fiscal year for which the election has effect, by applying the consolidated accounting treatment of the ultimate parent entity to eliminate income, expenses, gains and losses arising from transactions between relevant local entities;
- (b) the election is a five-year election;
- (c) the financial accounting income of the relevant local entities is to be adjusted for the first fiscal year for which the election has effect to ensure that there are no duplications or omissions of items of income, expenses, gains or losses arising as a result of electing under this subsection;
- (d) if an election under this subsection is revoked, the financial accounting income of relevant local entities is to be adjusted for the revocation year to ensure that there are no duplications or omissions of items of income, expenses, gains or losses arising as a result of the revocation; and
- (e) for the purposes of this subsection, relevant local entities located in a jurisdiction are considered to be included in a tax consolidation group if, under the law of that jurisdiction, the income, expenses, gains or losses of those group entities may be shared for tax purposes by virtue of a connection between the entities based on ownership or common control.

Qualified debt release — election

(23) If a filing constituent entity elects under this subsection for a fiscal year in respect of a constituent entity, the constituent entity’s GloBE income or loss excludes any qualified debt release amounts of the entity for the year.

Permanent establishments — losses

(24) Notwithstanding subsection 17(3), if a constituent entity that is a permanent establishment would, in the absence of this subsection, have a GloBE loss (referred to in this subsection as the “loss amount”) for a fiscal year

- (a) that loss amount is to be treated as an expense of the main entity in respect of the permanent establishment (and not of the permanent establishment) in computing its GloBE income or loss for the fiscal year, to the extent that the loss amount
 - (i) is treated as an expense for the purposes of the computation of tax in the jurisdiction in which the main entity is located, and
 - (ii) is not set off against an item of income that is subject to tax under the laws of both the jurisdiction of the permanent establishment and of the main entity; and
- (b) if the permanent establishment would, in the absence of this subsection, have GloBE income (referred to in this paragraph as the “income amount”) for a subsequent fiscal year, that income amount is treated as GloBE income of the main entity (and not of the permanent establishment) to the extent of the lesser of
 - (i) the income amount of the permanent establishment for that fiscal year, and
 - (ii) the amount, if any, by which the loss amount described in paragraph (a) exceeds the total of all amounts, each of which is, in respect of that loss amount, an amount that was treated as GloBE income of the main entity (and not of the permanent establishment) in a prior fiscal year under this paragraph.

SUBDIVISION C

International Shipping Net Income or Loss Exclusion

Exclusion of international shipping net income or loss

19 (1) In computing a constituent entity's GloBE income or loss for a fiscal year, the constituent entity's net income or loss from international shipping for that fiscal year shall be excluded.

Net income or loss from international shipping

(2) *Net income or loss from international shipping*, of a constituent entity for a fiscal year, means the amount determined by the formula

$$A + B$$

where

- A** is the constituent entity's core international shipping income for the fiscal year; and
- B** is the constituent entity's qualified ancillary international shipping income for the fiscal year.

Core international shipping income

(3) *Core international shipping income*, of a constituent entity for a fiscal year, means the amount determined by the formula

$$A - B$$

where

- A** is the constituent entity's core international shipping revenue for the fiscal year; and
- B** is the constituent entity's core international shipping costs for the fiscal year.

Core international shipping revenue

(4) *Core international shipping revenue*, of a constituent entity for a fiscal year, means the constituent entity's revenue for the fiscal year obtained in consideration for the entity's performance of core international shipping activities.

Core international shipping costs

(5) *Core international shipping costs*, of a constituent entity for a fiscal year, means the amount determined by the formula

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

where

- A** is the total costs incurred by the constituent entity for the fiscal year that are directly attributable to the entity's performance of core international shipping activities;
- B** is the total costs incurred by the constituent entity for the fiscal year that are indirectly attributable to the entity's performance of core international shipping activities;
- C** is the constituent entity's core international shipping revenue for the fiscal year; and
- D** is the constituent entity's total revenue for the fiscal year from all sources.

Core international shipping activity

(6) *Core international shipping activity* means an activity, if

- (a)** the strategic or commercial management of the performance of that activity by the constituent entity is effectively carried on within the jurisdiction in which the constituent entity is located; and
- (b)** the activity is any of the following:

- (i) international shipping, whether the ship is owned, leased or otherwise at the disposal of the constituent entity,
- (ii) arranging for another person to carry out international shipping under a slot-chartering arrangement,
- (iii) leasing a ship to be used for international shipping on charter fully equipped, crewed and supplied,
- (iv) leasing a ship to be used for international shipping on a bareboat charter basis to another constituent entity of the MNE group,
- (v) the participation in a pool, a joint business or an international operating agency for international shipping, or
- (vi) the sale of a ship used for international shipping, provided that the ship has been held for use by the constituent entity for at least one year.

Qualified ancillary international shipping income

(7) *Qualified ancillary international shipping income*, of a particular constituent entity located in a particular jurisdiction for a fiscal year, means

- (a) the particular constituent entity's ancillary international shipping income, if

$$A \leq B/2$$

where

- A** is the total of all amounts, each of which is the ancillary international shipping income of a group entity located in the particular jurisdiction for the fiscal year; and
- B** is the total of all amounts, each of which is the core international shipping income of a group entity located in the particular jurisdiction for the fiscal year; or

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

$$B/2 \times C/A$$

where

- C** is the particular constituent entity's ancillary international shipping income for the fiscal year.

Ancillary international shipping income

(8) *Ancillary international shipping income*, of a constituent entity for a fiscal year, means the amount determined by the formula

$$A - B$$

where

- A** is the constituent entity's ancillary international shipping revenue for the fiscal year; and
- B** is the constituent entity's ancillary international shipping costs for the fiscal year.

Ancillary international shipping revenue

(9) *Ancillary international shipping revenue*, of a constituent entity for a fiscal year, means the constituent entity's revenue for the fiscal year obtained in consideration for the entity's performance of ancillary international shipping activities.

Ancillary international shipping costs

(10) *Ancillary international shipping costs*, of a constituent entity for a fiscal year, means the amount determined by the formula

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

where

- A** is the total costs incurred by the constituent entity for the fiscal year that are directly attributable to the entity's performance of ancillary international shipping activities;
- B** is the total costs incurred by the constituent entity for the fiscal year that are indirectly attributable to the entity's performance of ancillary international shipping activities;
- C** is the constituent entity's ancillary international shipping revenue for the fiscal year; and
- D** is the constituent entity's total revenue for the fiscal year from all sources.

Ancillary international shipping activity

(11) Ancillary international shipping activity means an activity, if

- (a)** the strategic or commercial management of the performance of that activity by the constituent entity is effectively carried on within the jurisdiction in which the constituent entity is located;
- (b)** the activity is performed primarily in connection with international shipping; and
- (c)** the activity is any of the following:
 - (i)** leasing a ship on a bareboat charter basis to another shipping enterprise, other than another constituent entity of the MNE group, if
 - (A)** the lease has not been in effect for a period exceeding three years, and
 - (B)** it is established by subsequent events or otherwise that the lease is not part of a series of leases, or of leases and other transactions, that results in the leases being in effect for an aggregate period exceeding three years,
 - (ii)** selling tickets for the transportation of passengers or cargo by ship between ports in a single jurisdiction, if
 - (A)** the transportation is carried out by a shipping enterprise other than the constituent entity or another constituent entity of the MNE group, and
 - (B)** the ship proceeds to, or has come from, a port in a different jurisdiction,
 - (iii)** leasing and short-term storage of a container, or detention charges for the late return of a container,
 - (iv)** the provision of services by engineers, maintenance staff, cargo handlers, catering staff or customer services personnel to another shipping enterprise, other than another constituent entity of the MNE group, engaged in international shipping, or
 - (v)** holding assets necessary for the constituent entity to carry on the business of international shipping.

SUBDIVISION D

Ultimate Parent Entities subject to Tax Transparency or Deductible Dividend Regimes

GloBE income — flow-through ultimate parent entity

20 (1) The GloBE income, for a particular fiscal year, of an ultimate parent entity that is a flow-through entity excludes any amount that would, in the absence of this subsection, be included in computing the entity's GloBE income or loss for the particular fiscal year and that is attributable to an ownership interest in the entity (referred to in this subsection as the "attributable amount"), if

- (a)** one of the following conditions is met:

(i) the holder is subject to tax, for a taxable period ending within 12 months of the end of the particular fiscal year, on the full attributable amount at a nominal rate that is equal to, or exceeds, the minimum rate, or

(ii) it can reasonably be expected that

$$(A + B) \geq C \times D$$

where

A is the amount that would, in the absence of this subsection and paragraph 22(4)(a), be adjusted covered taxes payable by the ultimate parent entity in respect of the attributable amount for the particular fiscal year,

B is the tax payable by the holder in respect of the attributable amount for a taxable period ending within 12 months of the end of the particular fiscal year,

C is the attributable amount, and

D is the minimum rate;

(b) the holder is a natural person who

(i) is tax resident in the jurisdiction where the ultimate parent entity is located, and

(ii) does not hold ownership interests that in the aggregate entitle the holder to more than 5% of the profits or assets of the ultimate parent entity; or

(c) the holder is a governmental entity, an international organization, a non-profit organization or a pension fund that

(i) is resident in the jurisdiction where the ultimate parent entity is located, and

(ii) does not hold ownership interests that in the aggregate entitle the holder to more than 5% of the profits or assets of the ultimate parent entity.

Resident — interpretation

(2) For the purposes of subparagraph (1)(c)(i) and subparagraph 21(1)(c)(i),

(a) an entity (other than a governmental entity) is resident in the jurisdiction where it is created and managed; and

(b) a governmental entity is resident in the jurisdiction of the government of which it is a part or that owns it.

GloBE loss — flow-through ultimate parent entity

(3) The GloBE loss, for a fiscal year, of an ultimate parent entity that is a flow-through entity is the amount determined by the formula

$$A - B$$

where

A is the amount that would, in the absence of this subsection, be the ultimate parent entity's GloBE loss for the year, and

B is any portion of the loss amount referred to in the description of A that is attributable to an ownership interest in the entity, the holder of which is allowed to use its share of the loss in computing the holder's income for tax purposes.

Permanent establishment — flow-through ultimate parent entity

(4) Subsections (1) to (3) apply to a permanent establishment in the same manner as they apply to an ultimate parent entity that is a flow-through entity, if

(a) the ultimate parent entity carries on its business, in whole or in part, through the permanent establishment; or

(b) the following conditions are met:

- (i)** a tax transparent entity carries on its business, in whole or in part, through the permanent establishment, and
- (ii)** the ultimate parent entity holds its interest in the tax transparent entity directly or through a tax transparent structure.

GloBE income — deductible dividend regime

21 (1) The GloBE income, for a particular fiscal year, of an ultimate parent entity that is subject to a deductible dividend regime and distributes a deductible dividend within 12 months of the end of the particular fiscal year excludes the amount of the dividend (except to the extent its exclusion would result in a GloBE loss for the year), if

(a) one of the following conditions is met:

- (i)** the dividend recipient is subject to tax, for a taxable period that ends within 12 months of the end of the particular fiscal year, on the full amount of the dividend at a nominal rate that is equal to, or exceeds, the minimum rate,
- (ii)** it can reasonably be expected that

$$(A + B) \geq C \times D$$

where

- A** is the amount that would, in the absence of this subsection and paragraph 22(4)(b), be adjusted covered taxes payable by the ultimate parent entity in respect of the amount of the dividend,
- B** is the tax payable in respect of the dividend by the dividend recipient for a taxable period ending within 12 months of the end of the particular fiscal year,
- C** is the amount of the dividend, and
- D** is the minimum rate; or

(iii) it is the case that

- (A)** the dividend recipient is a natural person,
- (B)** the dividend recipient is subject to tax in respect of the dividend for a taxable period that ends within 12 months of the end of the particular fiscal year, and
- (C)** the dividend is a patronage dividend from a supply cooperative;

(b) the dividend recipient is a natural person who

- (i)** is tax resident in the jurisdiction where the ultimate parent entity is located, and
- (ii)** does not hold ownership interests that in the aggregate entitle the holder to more than 5% of the profits or assets of the ultimate parent entity; or

(c) the dividend recipient is resident in the jurisdiction where the ultimate parent entity is located and is

- (i)** a governmental entity,
- (ii)** an international organization,
- (iii)** a non-profit organization, or
- (iv)** a pension fund that is not a pension services entity.

Exclusion for covered taxes

(2) If subsection (1) applies to exclude a particular amount from the GloBE income of an ultimate parent entity, the entity's GloBE income also excludes the amount of the entity's covered taxes that are, because of the exclusion of the particular amount from its GloBE income, excluded from the entity's adjusted covered taxes under paragraph 22(4)(b).

Back-to-back deductible dividends

(3) Subsections (1) and (2) apply, with such modifications as the context requires, to a group entity for a fiscal year in respect of a particular deductible dividend distributed by the group entity directly or indirectly to the ultimate parent entity, to the extent that

- (a)** the group entity is located in the same jurisdiction as the ultimate parent entity;
- (b)** the group entity is subject to the deductible dividend regime;
- (c)** the ultimate parent entity holds an ownership interest in the group entity, either directly or through a chain of group entities that meet the conditions in paragraphs (a) and (b);
- (d)** the ultimate parent entity distributes, within 12 months of the end of the fiscal year, the amount it received in respect of the particular deductible dividend; and
- (e)** the distribution by the ultimate parent entity is a deductible dividend in respect of which a condition in any of paragraphs (1)(a) to (c) is met.

Deeming rule — patronage dividends

(4) For the purposes of clause (1)(a)(iii)(B), a patronage dividend from a supply cooperative is deemed to be subject to tax to the extent that it reduces a cost or expense that is otherwise deductible in computing the recipient's income for tax purposes.

DIVISION C

Computation of Adjusted Covered Taxes

SUBDIVISION A

Adjusted Covered Taxes

Adjusted covered taxes — meaning

22 (1) The *adjusted covered taxes*, of a constituent entity of an MNE group for a fiscal year, means the current tax expense accrued, in respect of covered taxes, in the constituent entity's financial accounts (referred to in this subsection as the "accrued current tax expense") for the year, adjusted by the following:

- (a)** the positive or negative amount determined by the formula

$$A - B$$

where

- A** is the total of the additions to covered taxes, in respect of the constituent entity for the year, under subsection (2), and
- B** is the total of the reductions to covered taxes, in respect of the constituent entity for the year, under subsection (3);
- (b)** the total deferred tax adjustment amount of the constituent entity for the year, unless paragraph 26(b) or (c) applies in respect of the year and the jurisdiction in which the constituent entity is located; and

(c) each amount recorded in the equity or other comprehensive income of the constituent entity for the year that can reasonably be considered to relate to an increase or decrease in respect of covered taxes, if

(i) the covered taxes are in respect of an amount (referred to in this paragraph as the “included amount”) included in the constituent entity’s GloBE income or loss for the fiscal year, and

(ii) the included amount is subject to tax under the laws of the jurisdiction in which the constituent entity is located.

Adjusted covered taxes — additions

(2) For the purposes of subsection (1), each of the following amounts is an addition to covered taxes in respect of a constituent entity of an MNE group for a fiscal year:

(a) an amount accrued as an expense, in respect of covered taxes, in profit before taxation in the constituent entity’s financial accounts for the year;

(b) the constituent entity’s share of a GloBE loss deferred tax asset of the MNE group that is reversed in the year;

(c) an amount paid, in respect of covered taxes, in the fiscal year to the extent that the amount

(i) relates to an uncertain tax position, and

(ii) was treated as a reduction to the constituent entity’s covered taxes for a preceding fiscal year under paragraph (3)(d); and

(d) an amount of a credit or refund, in respect of a qualified refundable tax credit, that is recorded as a reduction in the current tax expense, in respect of covered taxes, accrued in the financial accounts of the constituent entity for the year.

Adjusted covered taxes — reductions

(3) For the purposes of subsection (1), each of the following amounts is a reduction to covered taxes in respect of a constituent entity for a fiscal year:

(a) in respect of an amount of income that is not included in computing the constituent entity’s GloBE income or loss,

(i) any portion of the constituent entity’s current tax expense accrued, in respect of covered taxes, in its financial accounts (referred to in this subsection as “accrued current tax expense”) for the fiscal year that relates to the amount of income, or

(ii) any portion of an addition to covered taxes, in respect of the constituent entity for the fiscal year under subsection (2), that relates to the amount of income;

(b) any portion of an amount, in respect of a non-qualified refundable tax credit, that is

(i) credited or refunded, in respect of covered taxes, to the constituent entity in the fiscal year, and

(ii) not recorded as a reduction to the constituent entity’s accrued current tax expense for the fiscal year;

(c) any portion of any amount that is credited or refunded (other than in respect of a qualified refundable tax credit), in respect of covered taxes, that is not treated as an adjustment to the constituent entity’s accrued current tax expense for the fiscal year;

(d) any portion of the constituent entity’s accrued current tax expense for the fiscal year that relates to an uncertain tax position; and

(e) any portion of the constituent entity's accrued current tax expense for the fiscal year that is not expected to be paid on or before the day that is three years after the day on which the fiscal year ends.

Adjusted covered taxes — reductions for special regimes

(4) For greater certainty,

(a) if an amount is excluded in computing the GloBE income of a constituent entity under subsection 20(1), the entity's adjusted covered taxes shall be reduced proportionally; and

(b) if an amount is excluded in computing the GloBE income of a constituent entity under subsection 21(1), the entity's adjusted covered taxes (other than the taxes for which a dividend deduction under that subsection was allowed) shall be reduced proportionally.

Adjusted covered taxes — no double counting

(5) For the purposes of determining a constituent entity's adjusted covered taxes, an amount, in respect of covered taxes, is not to be taken into account more than once in determining the adjusted covered taxes of

(a) a constituent entity for a particular fiscal year or another fiscal year; or

(b) more than one constituent entity for a particular fiscal year or another fiscal year.

Covered taxes — meaning

23 (1) Covered taxes means taxes (other than excluded taxes) that

(a) are recorded in the financial accounts of a particular constituent entity in respect of its

(i) income or profits, or

(ii) share of the income or profits of another entity that is

(A) a group entity in respect of the particular constituent entity, and

(B) an entity in which the particular constituent entity holds, directly or indirectly, an ownership interest;

(b) are imposed under an eligible distribution tax system;

(c) are imposed in lieu of an income or profits tax of general application; or

(d) are charged by reference to

(i) retained earnings and corporate equity, or

(ii) multiple components consisting of retained earnings, corporate equity and income or profits.

Excluded taxes — meaning

(2) **Excluded taxes** means

(a) any tax under a qualified IIR;

(b) any tax under a qualified domestic minimum top-up tax;

(c) any tax under, or as a result of the application of, a qualified UTPR;

(d) a disqualified refundable imputation tax; and

(e) a tax paid or accrued by an insurance company in respect of returns to policyholders.

SUBDIVISION B

Allocation of Covered Taxes

Allocation of covered taxes to a permanent establishment

24 (1) An amount in respect of covered taxes is allocated from a particular constituent entity to a permanent establishment for a fiscal year, if

- (a) the permanent establishment is a group entity in respect of the particular constituent entity; and
- (b) the amount is
 - (i) accrued in the financial accounts of the particular constituent entity, and
 - (ii) in respect of the GloBE income or loss of the permanent establishment for the fiscal year.

Allocation of covered taxes — permanent establishment loss

(2) If subsection 18(24) applies in respect of a permanent establishment and the main entity in respect of the permanent establishment, the following rules apply:

- (a) a deferred tax asset is to be disregarded if
 - (i) it is attributable to a tax loss arising in the jurisdiction in which the permanent establishment is located, and
 - (ii) the loss is treated as an expense of the main entity under paragraph 18(24)(a); and

(b) if covered taxes arise in the jurisdiction in which the permanent establishment is located in respect of income (referred to in this paragraph as the “allocated income”) of the permanent establishment that is included in computing the GloBE income or loss of the main entity for a fiscal year under paragraph 18(24)(b), the covered taxes are allocated from the permanent establishment to the main entity for the fiscal year, to the extent of the lesser of

- (i) the amount of the covered taxes; and
- (ii) the amount determined by the formula

$$A \times B$$

where

A is the allocated income, and

B is the highest rate of corporate tax on ordinary income in the jurisdiction where the main entity is located.

Allocation of covered taxes — tax transparent entities

(3) An amount in respect of covered taxes is allocated from a tax transparent entity, to its constituent entity-owner, to the extent that

- (a) the constituent entity-owner holds a direct ownership interest in the tax transparent entity; and
- (b) the amount is
 - (i) accrued in the financial accounts of the tax transparent entity, and
 - (ii) in respect of any portion of the net income or loss of the tax transparent entity that is included in computing the financial accounting income of the constituent entity-owner because of paragraph 17(6)(b).

Allocation of covered taxes — controlled foreign companies

(4) The following rules apply for the purposes of allocating, to a constituent entity (referred to in this subsection as the “controlled foreign company”) of an MNE group, amounts in respect of covered taxes to which a constituent entity-owner of the controlled foreign company is subject under a controlled foreign company tax regime:

(a) subject to paragraphs (b) and (c), an amount in respect of covered taxes arising in a fiscal year is allocated from the constituent entity-owner to the controlled foreign company, if

(i) the constituent entity-owner is located in one jurisdiction (referred to in this subsection as the “parent jurisdiction”) and the controlled foreign company is located in another jurisdiction (referred to in this subsection as the “subsidiary jurisdiction”), and

(ii) the amount is

(A) accrued in the financial accounts of the constituent entity-owner for the fiscal year, and

(B) in respect of covered taxes, imposed under a controlled foreign company tax regime of the parent jurisdiction, applicable in respect of the constituent entity-owner’s share of the controlled foreign company’s income;

(b) for the purposes of clause (a)(ii)(B), in the case of covered taxes imposed under a blended controlled foreign company tax regime that are accrued in the financial accounts of a constituent entity-owner for a fiscal year that is a transitional special allocation year, the amount in respect of the covered taxes applicable in respect of the constituent entity-owner’s share of the controlled foreign company’s income for the fiscal year is deemed to be equal to the amount determined by the formula

$$A \times B/C$$

where

A is the total amount, in respect of covered taxes imposed under the blended controlled foreign company tax regime, that is accrued in the financial accounts of the constituent entity-owner for the fiscal year,

B is the amount determined by the formula

$$D \times E$$

where

D is the constituent entity-owner’s share of the income of the controlled foreign company, as determined under the blended controlled foreign company tax regime in computing the covered taxes,

E is the result of the formula

$$F - G$$

where

F is the lowest rate that, if it were the corporate tax rate applicable in the subsidiary jurisdiction, would result in the tax charge in the subsidiary jurisdiction in respect of the controlled foreign company being sufficient to prevent a tax charge on the constituent entity-owner under the blended controlled foreign company tax regime in respect of its share of the income of the controlled foreign company for the fiscal year, and

G is the rate that would be the effective tax rate of the MNE group for the subsidiary jurisdiction for the fiscal year, if the jurisdictional adjusted covered taxes of the MNE group for the subsidiary jurisdiction was

(i) determined without regard to any covered taxes imposed under a controlled foreign company tax regime, and

(ii) increased by an amount equal to the tax payable for the fiscal year, in respect of the standard constituent entities of the MNE group located in the subsidiary jurisdiction, under a qualified domestic minimum top-up tax of the subsidiary jurisdiction, to the extent the blended controlled foreign

company tax regime allows a foreign tax credit for that tax payable on the same terms as any other creditable covered tax, and

C is total of all amounts each of which is an amount that would be determined for B, if

(i) all references in the description of B to “the controlled foreign company” and “the subsidiary jurisdiction” were read as references to “an entity in which the constituent entity-owner holds an ownership interest” and “the jurisdiction where the entity is located”, respectively, and

(ii) where an entity is located in a jurisdiction for which an effective tax rate of the MNE group is not determined for the fiscal year, the effective tax rate of the MNE group for that jurisdiction for the year was determined based on the aggregate income and taxes recorded in the financial accounts of all entities, located in the jurisdiction, in which the constituent entity-owner holds an ownership interest, and as if those entities were constituent entities of the MNE group; and

(c) if the covered taxes, in respect of which an amount would, in the absence of this paragraph, be allocated from the constituent entity-owner to the controlled foreign company under paragraph (a), are applicable in whole or in part in respect of passive income of the controlled foreign company, the amount allocated under paragraph (a) in respect of the portion of the covered taxes that are applicable in respect of the passive income is not to exceed the lesser of

(i) the amount that would, in the absence of this paragraph, be allocated under paragraph (a) in respect of the portion of the covered taxes that are applicable in respect of the passive income, and

(ii) the amount determined by the formula

$$A \times B$$

where

A is the amount of the controlled foreign company’s passive income included under the controlled foreign company tax regime in computing the covered taxes, and

B is the top-up percentage of the MNE group for the subsidiary jurisdiction, determined without regard to any amount in respect of covered taxes applicable in respect of the controlled foreign company’s passive income.

Allocation of covered taxes — hybrid entities

(5) The following rules apply for the purposes of allocating amounts in respect of covered taxes from a constituent entity-owner to a constituent entity (referred to in this subsection as the “hybrid entity”) of an MNE group that is a hybrid entity in relation to the constituent entity-owner:

(a) subject to paragraph (b), an amount in respect of covered taxes (referred to in this subsection as the “covered taxes amount”) accrued in the financial accounts of the constituent entity-owner for a fiscal year is allocated from the constituent entity-owner to the hybrid entity to the extent the covered taxes are in respect of income of the hybrid entity; and

(b) if the covered taxes are, in whole or in part, in respect of passive income of the hybrid entity, the amount to be allocated from the constituent entity-owner to the hybrid entity under paragraph (a), in respect of the portion of the covered taxes that are in respect of the hybrid entity’s passive income, is not to exceed the lesser of

(i) the portion of the covered taxes amount that is in respect of the hybrid entity’s passive income, and

(ii) the amount determined by the formula

$$A \times B$$

where

A is the amount of the hybrid entity’s passive income that is included in computing the covered taxes of the constituent entity-owner under the fiscal transparency rule in the jurisdiction where it is located, and

- B** is the top-up percentage of the MNE group for the jurisdiction where the hybrid entity is located, determined without regard to the portion of the covered taxes amount that is in respect of the hybrid entity's passive income.

Allocation of covered taxes — distributions

(6) An amount in respect of covered taxes (referred to in this subsection as the “covered taxes amount”) is allocated from a constituent entity-owner to a particular constituent entity in which it holds a direct ownership interest, if the covered taxes amount is

- (a)** accrued in the financial accounts of the constituent entity-owner; and
- (b)** in respect of a dividend or similar amount, in respect of the direct ownership interest, that is distributed – or deemed, under the tax laws of the jurisdiction in which the particular constituent entity is located, to be distributed – by the particular constituent entity to the constituent entity-owner.

SUBDIVISION C

Total Deferred Tax Adjustment Amount

Total deferred tax adjustment amount — meaning

25 (1) The *total deferred tax adjustment amount*, of a constituent entity for a fiscal year, means the positive or negative amount determined by the formula

$$A + B - C$$

where

A is

(a) if the tax rate applicable in determining the constituent entity's deferred tax expense, in respect of covered taxes, accrued in its financial accounts for the year exceeds the minimum rate, the amount that would be the constituent entity's deferred tax expense in respect of covered taxes (subject to the exclusions under subsection (2)), if the applicable tax rate were the minimum rate, and

(b) in any other case, the constituent entity's deferred tax expense, in respect of covered taxes, accrued in its financial accounts for the year (subject to the exclusions under subsection (2));

B is the total of all amounts each of which is

(a) an amount paid in the year in respect of an unclaimed accrual of the constituent entity, or

(b) the amount of any recaptured deferred tax liability determined for a preceding fiscal year that is paid in the year; and

C is the total of all amounts each of which is

(a) a reduction to the amount determined for A that would have occurred due to the recognition of a loss deferred tax asset for a current year tax loss but for the recognition criteria under the applicable accounting standard having not been met, or

(b) to the extent not reflected as a reduction in determining the amount for A, the amount by which a deferred tax asset has increased because of an election under subsection (5).

Total deferred tax adjustment amount — exclusions

(2) In determining the amount for A in subsection (1), the following are to be excluded:

(a) the portion of deferred tax expense that is in respect of

- (i)** an item that is not included in computing GloBE income or loss,

- (ii) a disallowed accrual or an unclaimed accrual, or
- (iii) the generation or use of a tax credit;
- (b) the effect of any valuation adjustment or accounting recognition adjustment in respect of a deferred tax asset; and
- (c) the portion of deferred tax expense that arises because of a re-measurement with respect to a change in the rate of tax applicable in determining the deferred tax expense.

Foreign tax credits — substitute loss carry-forward

(3) Notwithstanding subparagraph (2)(a)(iii), deferred tax expense shall be included in determining the amount for A in subsection (1) if it is in respect of a deferred tax asset in respect of

- (a) a substitute loss carry-forward tax credit, except that, in a fiscal year in which the substitute loss carry-forward tax credit is used, the deferred tax expense shall be included only to the extent the substitute loss carry-forward tax credit is used to reduce or eliminate covered taxes in respect of income that is included in computing the constituent entity's GloBE income or loss; or
- (b) a substitute loss carry-forward recapture amount.

Substitute loss carry-forward recapture amount

(4) To the extent it would not otherwise do so, a deferred tax asset is deemed, in respect of a substitute loss carry-forward recapture amount of a constituent entity located in a particular jurisdiction, to

- (a) arise in the fiscal year that the substitute loss carry-forward recapture amount arises, in an amount equal to the product obtained by multiplying the substitute loss carry-forward recapture amount by the statutory tax rate applicable to the constituent entity in the fiscal year under the income tax laws of the particular jurisdiction; and
- (b) reverse, in any fiscal year (referred to in this paragraph as a "recharacterization year") in which a recharacterization of income (referred to in this paragraph as the "recharacterized income") described in paragraph (b) in the definition *substitute loss carry-forward recapture amount* occurs, in an amount equal to the tax credits used by the constituent entity solely as a result of the recharacterization of income in the recharacterization year to the extent that
 - (i) the tax credits arise under the income tax laws of the particular jurisdiction in respect of tax paid to the government of a jurisdiction other than the particular jurisdiction,
 - (ii) the amount of the recharacterized income in the recharacterization year, together with the total amounts of recharacterized income in the preceding fiscal years, does not exceed the substitute loss carry-forward recapture amount, and
 - (iii) the tax credits are used to reduce or eliminate covered taxes that would otherwise be owing by the constituent entity under the income tax laws of the particular jurisdiction in respect of any amount of income that is included in computing the constituent entity's GloBE income or loss.

Deferred tax asset below minimum rate

(5) The amount of a deferred tax asset accrued in the financial accounts of a constituent entity of an MNE group is deemed to be the amount that it would be if the tax rate applicable in determining the amount of the deferred tax asset were the minimum rate, where the following conditions apply:

- (a) the tax rate that would, in the absence of this subsection, be applicable in determining the amount of the deferred tax asset is less than the minimum rate;
- (b) the deferred tax asset is a loss deferred tax asset that is attributable to a GloBE loss of the constituent entity for a fiscal year; and

(c) the filing constituent entity of the MNE group elects under this paragraph in respect of the deferred tax asset no later than the GIR due-date for the fiscal year.

Recaptured deferred tax liability

(6) For the purpose of applying subsection 31(1) in a fiscal year (referred to in this subsection as the “current fiscal year”), the adjusted covered taxes of a constituent entity for a fiscal year (referred to in this subsection as the “adjustment fiscal year”) that is the fifth fiscal year immediately preceding the current fiscal year are to be reduced to the extent of all or the portion of any deferred tax liability that is

- (a) included in determining the total deferred tax adjustment amount of the constituent entity for the adjustment fiscal year;
- (b) not paid in any of the 5 fiscal years immediately following the adjustment fiscal year; and
- (c) not a recapture exception accrual.

SUBDIVISION D

GloBE Loss Election

GloBE Loss Deferred Tax Asset

26 If a filing constituent entity of a particular MNE group elects under this section, in respect of a jurisdiction that does not have an eligible distribution tax system, for the first fiscal year in which the particular MNE group is a qualifying MNE group and a constituent entity of the particular MNE group is located in the jurisdiction, the following rules apply:

- (a) paragraphs (b) and (c) apply in respect of each such fiscal year (referred to in this subsection as an “election year”) of the particular MNE group that precedes the revocation year, if any, in respect of the election;
- (b) a GloBE loss deferred tax asset of the particular MNE group, in respect of the jurisdiction, is deemed to arise in any election year in which the particular MNE group has a net GloBE loss in respect of the jurisdiction, in an amount determined by the formula

$$A \times B$$

where

- A is the absolute value of the net GloBE loss for the election year, and
- B is the minimum rate;

(c) for the purposes of applying paragraph 22(2)(b) in respect of an election year (referred to in this paragraph as the “application year”) in which the particular MNE group has net GloBE income in respect of the jurisdiction, a particular constituent entity located in the jurisdiction is considered to have reversed a particular GloBE loss deferred tax asset of the particular MNE group in respect of the jurisdiction that arose in a preceding election year (referred to in this paragraph as the “loss year”), in an amount determined by the formula

$$C \times D/E$$

where

- C is the lesser of
 - (i) the amount determined by the formula

$$F \times G - H$$

where

- F is the particular MNE group’s net GloBE income in respect of the jurisdiction for the application year,
- G is the minimum rate, and

H is the total of all amounts each of which is the amount determined by the formula

$$K - L$$

where

K is the amount of another GloBE loss deferred tax asset of the particular MNE group, in respect of the jurisdiction, that arose in another election year preceding the loss year, and

L is the total of all amounts each of which is the portion of the other GloBE loss deferred tax asset that was considered to have been applied by a constituent entity in an election year preceding the application year, and

(ii) the amount determined by the formula

$$I - J$$

where

I is the particular GloBE loss deferred tax asset, and

J is the total of all amounts each of which is all or the portion of the particular GloBE loss deferred tax asset that was considered to have been reversed by a constituent entity in an election year preceding the application year,

D is the particular constituent entity's GloBE income for the application year, and

E is the total of all amounts each of which is the GloBE income of any constituent entity of the particular MNE group located in the jurisdiction for the application year; and

(d) if the ultimate parent entity of the particular MNE group is a flow-through entity located in the jurisdiction, paragraphs (b) and (c) are to be applied in relation to the constituent entities of the particular MNE group located in the jurisdiction as if the ultimate parent entity were

(i) the only constituent entity, of a separate MNE group, located in the jurisdiction, and

(ii) not a constituent entity, of the particular MNE group, located in the jurisdiction.

SUBDIVISION E

Post-Filing Adjustments and Tax Rate Changes

Adjustments to covered taxes for a prior year

27 (1) If, in a fiscal year (referred to in this subsection as the "current year"), there is an adjustment to the liability for covered taxes, recorded in the financial accounts, of a particular constituent entity of an MNE group for a prior fiscal year that are relevant in determining its adjusted covered taxes for the prior year, the following rules apply:

(a) if the adjustment results in an increase in the liability, or an immaterial decrease in the liability,

(i) where the adjustment relates to a change, in the particular constituent entity's deferred tax expense arising in the prior year, to which subsection (2) applies, the particular constituent entity's adjusted covered taxes for the fiscal year in which the deferred tax expense is reversed are to be increased to reflect the increase in the liability to the extent that it would not, in the absence of this subsection, already be reflected in the adjusted covered taxes of the particular constituent entity for any fiscal year, and

(ii) in any other case, the particular constituent entity's adjusted covered taxes for the current year are to be increased or reduced, as the case may be, to reflect the increase or immaterial decrease in the liability to the extent that it would not, in the absence of this subsection, already be reflected in the adjusted covered taxes of the particular constituent entity for any fiscal year;

(b) if the adjustment results in a decrease (other than an immaterial decrease) in the liability, for the purposes of applying subsection 31(1) in the current year

(i) the particular constituent entity's adjusted covered taxes for the prior year are to be reduced to reflect the decrease in the liability,

(ii) the GloBE income or loss for the prior year of the particular constituent entity is to be adjusted to the extent

(A) the decrease in the liability results from a reduction in the particular constituent entity's GloBE income or an increase in its GloBE loss for the prior year, and

(B) it is necessary to ensure there is no reduction in the MNE group's effective tax rate (determined without reference to this subsection), in respect of the jurisdiction in which the particular constituent entity is located, for the prior year, and

(iii) the GloBE income or loss, of the particular constituent entity and any other constituent entity of the MNE group located in the jurisdiction, for any fiscal year subsequent to the prior year, is to be adjusted, as necessary and appropriate, to reflect the decrease in the liability;

(c) for the purposes of paragraphs (a) and (b), the adjustment results in an immaterial decrease if

(i) the filing constituent entity of the MNE group files a written election under this paragraph in respect of the adjustment,

(ii) the adjustment results in a decrease in the liability, and

(iii) the amount determined by the following formula is less than €1 million:

$$A - B$$

where

A is the total of all amounts each of which is an adjustment in the current year resulting in a decrease to the liability for covered taxes, recorded in the financial accounts, of any constituent entity located in the jurisdiction for the prior year that are relevant in determining its adjusted covered taxes for the prior year, and

B is the amount that would be determined for A if the reference in the description of A to "decrease" were read as a reference to "increase"; and

(d) to the extent the adjustment arises because a loss for tax purposes for any fiscal year following the prior year is carried back to reduce income for tax purposes for the prior year, the particular constituent entity is deemed to have a deferred tax asset that

(i) arises in the current year,

(ii) is equal to the portion of the loss for tax purposes that reduces income for tax purposes for the prior year multiplied by the minimum rate, and

(iii) is treated as having been reversed in the prior year for the purposes of applying subsection 31(1) in respect of the prior year.

Adjustments — deferred tax expense

(2) For the purposes of subsection (1), a change, in a fiscal year (referred to in this subsection as the "current year"), in a constituent entity's deferred tax expense that arose in a prior fiscal year is to be treated as an adjustment, in the current year, to the constituent entity's liability for covered taxes, recorded in the financial accounts, for the prior year to the extent that

(a) the change results from a reduction, in the current year, to the rate of tax – that was applicable in determining the deferred tax expense for the prior year – below the minimum rate; and

(b) the deferred tax expense was reflected in determining the constituent entity's total deferred tax adjustment amount for the prior year.

Adjustments — deferred tax expense

(3) For the purposes of subsection (1),

(a) a change, in a particular fiscal year, in a constituent entity's deferred tax expense that arose in a prior fiscal year is to be treated as an adjustment, in the fiscal year in which the deferred tax expense is reversed, to the constituent entity's liability for covered taxes, recorded in the financial accounts, for the prior year to the extent that

(i) the change results from an increase, in the particular year, to the rate of tax – that was applicable in determining the deferred tax expense for the prior year – from a rate that was less than the minimum rate, and

(ii) the deferred tax expense was reflected in determining the constituent entity's total deferred tax adjustment amount for the prior year; and

(b) any portion of the change that is attributable to an increase of the rate of tax in excess of the minimum rate is to be disregarded in determining the adjustment under paragraph (a).

Adjustments — unpaid covered taxes

(4) For the purposes of applying subsection 31(1) in a fiscal year (referred to in this subsection as the “current year”), a constituent entity's adjusted covered taxes for another fiscal year (referred to in this subsection as the “prior year”) are to be adjusted to exclude any portion of the current tax expense that is accrued, in respect of covered taxes, in the constituent entity's financial accounts for the prior year and included in its adjusted covered taxes for the prior year, if

(a) the portion is not paid by the day (referred to in this subsection as the “specified day”) that is three years after the last day of the prior year;

(b) the specified day is within the current fiscal year; and

(c) the portion is greater than €1 million.

SUBDIVISION F

Qualified Flow-Through Tax Benefits

Qualified flow-through tax benefits — definitions

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

adjusted investment amount, of an owner in respect of a qualified flow-through ownership interest for a fiscal year (referred to in this definition as the “determination year”), means the amount determined by the formula

$$A - B - C - D - E$$

where

A is the investment amount of the owner in respect of the ownership interest;

B is the total of all amounts each of which is the qualified flow-through tax benefits of the owner in respect of the ownership interest for a fiscal year preceding the determination year;

C is the total of all amounts each of which is the tax benefit of a qualified refundable tax credit received by the owner in respect of the ownership interest in the determination year or any preceding fiscal year;

D is the total of all amounts each of which is the amount of a distribution (including a return of capital) received by the owner in respect of the ownership interest in the determination year or any preceding fiscal year; and

E is the total of all amounts each of which is the amount of proceeds received by the owner from a sale of all or part of the ownership interest in the determination year or any preceding fiscal year. (*montant d'investissement ajusté*)

flow-through tax benefits, of an owner in respect of a qualified flow-through ownership interest for a fiscal year, means the total of all amounts each of which is

(a) the tax benefit, of a tax credit (other than a qualified refundable tax credit), received by the owner in respect of the ownership interest for the fiscal year; or

(b) the tax benefit, of a tax loss, received by the owner in respect of the ownership interest for the fiscal year. (*avantages fiscaux intermédiaires*)

investment amount, of an owner in respect of an ownership interest, means the total fair market value of all consideration provided by the owner for the ownership interest. (*montant d'investissement*)

qualified flow-through ownership interest means an ownership interest in a particular tax transparent entity held by a constituent entity of an MNE group directly, or indirectly through one or more other tax transparent entities that are not constituent entities of the MNE group, if

(a) the assets, liabilities, income, expenses and cash flows of the particular tax transparent entity are not consolidated on a line-by-line basis in the consolidated financial statements of the ultimate parent entity of the MNE group; and

(b) at the time the ownership interest was acquired by the owner, the total return received by the owner (including distributions, the tax benefits of tax losses and the tax benefits of qualified refundable tax credits derived through the ownership interest, but excluding the tax benefits of tax credits other than qualified refundable tax credits) from its investment in the ownership interest could not reasonably have been expected to be greater than or equal to the investment amount of the owner in respect of the ownership interest. (*titre de participation intermédiaire admissible*)

qualified flow-through tax benefits, of an owner in respect of a qualified flow-through ownership interest for a fiscal year, means the lesser of

(a) the adjusted investment amount of the owner in respect of the ownership interest for the fiscal year; and

(b) the flow-through tax benefits of the owner in respect of the ownership interest for the fiscal year. (*avantages fiscaux intermédiaires admissibles*)

recapture amount, of an owner in respect of a qualified flow-through ownership interest for a particular fiscal year, means the lesser of

(a) the amount determined by the formula

$$A - B + C$$

where

A is the total of all amounts each of which is the tax benefit of a qualified refundable tax credit, the amount of a distribution (including a return of capital) or the amount of sale proceeds received by the owner in respect of the ownership interest for the particular fiscal year,

B is the adjusted investment amount of the owner in respect of the ownership interest for the fiscal year immediately preceding the particular fiscal year, and

C is the qualified flow-through tax benefits of the owner in respect of the ownership interest for the fiscal year immediately preceding the particular fiscal year; and

(b) the amount determined by the formula

$$D - E$$

where

- D** is the total of all amounts each of which is the qualified flow-through tax benefits of the owner in respect of the ownership interest for fiscal years preceding the particular fiscal year, and
- E** is the total of all amounts each of which is the recapture amount of the owner in respect of the ownership interest for a fiscal year preceding the particular fiscal year. (*montant de récupération*)

tax benefit, of a tax loss of an owner in respect of a qualified flow-through ownership interest, means the product obtained by multiplying the amount of any tax loss attributed to the owner in respect of the ownership interest by the statutory income tax rate applicable to the owner in the jurisdiction where it is located. (*avantage fiscal*)

Adjusted covered taxes — additions and subtractions

(2) If an owner holds a qualified flow-through ownership interest in another entity (referred to in this subsection as the “subject entity”) and is subject to an election under subsection 18(7) in a particular fiscal year (referred to in this subsection as the “election year”), the adjusted covered taxes of the owner for the election year is deemed to be the amount determined by the formula

$$A + B - C$$

where

- A** is the adjusted covered taxes of the owner for the election year, as determined without regard to any amount determined under B or C in the formula in this subsection in respect of the ownership interest for the election year;
- B** is the lesser of
 - (a)** the qualified flow-through tax benefits, if any, of the owner in respect of the ownership interest for the election year, and
 - (b)** the amount by which the owner’s current tax expense in respect of covered taxes can reasonably be considered to have been reduced for financial accounting purposes in the election year because of those qualified flow-through tax benefits; and
- C** is the amount determined by the formula

$$D + E$$

where

- D** is the amount by which the flow-through tax benefits of the owner in respect of the ownership interest for the election year exceed the adjusted investment amount of the owner in respect of the ownership interest for the election year, and
- E** is the amount determined by the formula

$$F/G \times H$$

where

- F** is the recapture amount of the owner in respect of the ownership interest for the election year,
- G** is the total of all amounts each of which is the qualified flow-through tax benefits of the owner in respect of the ownership interest for a fiscal year preceding the election year, and
- H** is the total of all amounts each of which is an increase to the owner’s adjusted covered taxes under B in the formula in this subsection for a fiscal year preceding the election year.

Qualified flow-through tax benefits — records

(3) Records shall be maintained in respect of an MNE group containing sufficient information to allow the Minister to verify if any tax credits and tax losses received by a constituent entity of the MNE group are qualified flow-through tax benefits and those records shall be made available at the request of the Minister for examination or inspection by any person authorized by the Minister for that purpose.

DIVISION D

Computation of Effective Tax Rate and Top-up Amount

SUBDIVISION A

Effective Tax Rate

Effective tax rate

29 (1) The **effective tax rate**, of an MNE group for a jurisdiction for a fiscal year, means

- (a) if the net GloBE income of the MNE group for the jurisdiction for the fiscal year is nil, the minimum rate; and
- (b) in any other case, the result (expressed as a percentage rounded to four decimal points) of the formula

$$(A - B) \div C$$

where

- A** is the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for the fiscal year,
- B** is the lesser of
 - (i) the amount determined for A, and
 - (ii) the excess negative tax expense of the MNE group for the jurisdiction for the fiscal year, and
- C** is the net GloBE income of the MNE group for the jurisdiction for the fiscal year.

Net GloBE income

(2) The **net GloBE income**, of an MNE group for a jurisdiction for a fiscal year, means the amount determined by the formula

$$A - B$$

where

- A** is the total of all amounts each of which is the GloBE income for the fiscal year of a standard constituent entity of the MNE group located in the jurisdiction; and
- B** is the total of all amounts each of which is the GloBE loss for the fiscal year of a standard constituent entity of the MNE group located in the jurisdiction.

Jurisdictional adjusted covered taxes

(3) The **jurisdictional adjusted covered taxes**, of an MNE group for a jurisdiction for a fiscal year, means the total of all amounts each of which is the adjusted covered taxes for the fiscal year of a standard constituent entity of the MNE group located in the jurisdiction.

Excess negative tax expense

(4) The **excess negative tax expense**, of an MNE group for a jurisdiction for a particular fiscal year, means the amount determined by the formula

$$A + B - C$$

where

- A** is the absolute value of the total of all amounts each of which is the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for a fiscal year
 - (a) that precedes the particular fiscal year,
 - (b) in which the net GloBE income of the MNE group for the jurisdiction is nil or greater, and

- (c) in which the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction is less than nil;
- B** is the total of all amounts each of which is the amount by which the excess negative tax expense top-up amount, of a standard constituent entity of the MNE group located in the jurisdiction, for a fiscal year that precedes the particular fiscal year, is reduced because of an election under subsection 31(5); and
- C** is the total of all amounts each of which is the amount determined for B in the formula in paragraph (1)(b) in respect of the MNE group for the jurisdiction for a fiscal year, that precedes the particular fiscal year, in which paragraph (1)(b) applies.

SUBDIVISION B

Top-up Amount of a Standard Constituent Entity

Top-up amount of a standard constituent entity

30 (1) The *top-up amount*, of a particular standard constituent entity of an MNE group located in a jurisdiction for a fiscal year, means

(a) if the net GloBE income of the MNE group for the jurisdiction for the fiscal year is greater than nil, the amount determined by the formula

$$A \times B/C$$

where

- A** is the jurisdictional top-up amount of the MNE group for the jurisdiction for the fiscal year,
- B** is the GloBE income of the particular standard constituent entity for the fiscal year, and
- C** is the total of all amounts each of which is the GloBE income, of a standard constituent entity of the MNE group located in the jurisdiction, for the fiscal year; and

(b) if the net GloBE income of the MNE group for the jurisdiction for the fiscal year is nil, the total of

- (i) the allocated adjustment top-up amount of the particular standard constituent entity for the fiscal year, and
- (ii) where the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for the fiscal year is less than nil, the excess negative tax expense top-up amount of the particular standard constituent entity for the fiscal year.

Jurisdictional top-up amount

(2) The *jurisdictional top-up amount*, of an MNE group for a jurisdiction for a fiscal year, means the amount determined by the formula

$$A \times B + C - D$$

where

- A** is the top-up percentage of the MNE group for the jurisdiction for the fiscal year;
- B** is the excess profit of the MNE group for the jurisdiction for the fiscal year;
- C** is the total of all amounts each of which is an adjustment top-up amount of the MNE group for the jurisdiction for the fiscal year; and
- D** is the total amount of tax payable for a fiscal year, in respect of the standard constituent entities of the MNE group located in the jurisdiction, under a qualified domestic minimum top-up tax of the jurisdiction.

Top-up percentage

(3) The *top-up percentage*, of an MNE group for a jurisdiction for a fiscal year, means the percentage point difference determined by the formula

$$A - B$$

where

A is the minimum rate; and

B is the effective tax rate of the MNE group for the jurisdiction for the fiscal year.

Excess profit

(4) The *excess profit*, of an MNE group for a jurisdiction for a fiscal year, means the amount determined by the formula

$$A - B$$

where

A is the net GloBE income of the MNE group for the jurisdiction for the fiscal year; and

B is the substance-based income exclusion amount of the MNE group for the jurisdiction for the fiscal year.

Allocated adjustment top-up amount

(5) The *allocated adjustment top-up amount* of a particular standard constituent entity of an MNE group located in a jurisdiction for a particular fiscal year means the total of all amounts each of which is determined by the formula

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

where

A is a particular adjustment top-up amount of the MNE group for the jurisdiction for the particular fiscal year;

B is the amount determined by the formula

$$E \times A/(F + G)$$

where

E is the total amount of tax payable for the particular fiscal year, in respect of the standard constituent entities of the MNE group located in the jurisdiction, under a qualified domestic minimum top-up tax of the jurisdiction,

F is the total of all adjustment top-up amounts of the MNE group for the jurisdiction for the particular fiscal year, and

G is the jurisdictional excess negative tax expense top-up amount of the MNE group for the jurisdiction for the particular fiscal year, if the formula in that definition in subsection 31(4) were read without reference to C;

C is the GloBE income of the particular standard constituent entity, for the adjustment year to which the particular adjustment top-up amount relates, as adjusted because of the application of any ETR adjustment provision in the particular fiscal year or any preceding fiscal year; and

D is the total of all amounts each of which is the GloBE income, for the adjustment year, of a standard constituent entity of the MNE group located in the jurisdiction, as adjusted because of the application of any ETR adjustment provision in the particular fiscal year or any preceding fiscal year.

Adjustment top-up amount

31 (1) For the purposes of determining an adjustment top-up amount of an MNE group for a jurisdiction for a particular fiscal year, if an ETR adjustment provision applies in the particular fiscal year to adjust, for the purposes of this subsection, the GloBE income or loss or adjusted covered taxes of any standard constituent entity of the MNE group located in the jurisdiction, or the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction, for an adjustment year, the following rules apply:

(a) the jurisdictional top-up amount of the MNE group for the jurisdiction for the adjustment year (referred to in this subsection as the “recalculated jurisdictional top-up amount”) is calculated taking into account the adjustment; and

(b) the amount determined by the following formula is an adjustment top-up amount of the MNE group for the jurisdiction for the particular fiscal year:

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

where

A is the recalculated jurisdictional top-up amount of the MNE group for the jurisdiction for the adjustment year,

B is the jurisdictional top-up amount of the MNE group for the jurisdiction for the adjustment year, determined without reference to paragraph (a), and

C is

(i) the disposition recapture ratio, if the adjustment is an adjustment to adjusted covered taxes under subsection 37(5), and

(ii) 1, in any other case.

Excess negative tax expense top-up amount

(2) Subject to subsection (5), the **excess negative tax expense top-up amount** of a particular negative tax expense constituent entity of an MNE group located in a jurisdiction for a fiscal year means the amount determined by the formula

$$A \times B/C$$

where

A is the jurisdictional excess negative tax expense top-up amount of the MNE group for the jurisdiction for the fiscal year;

B is the amount determined by the formula

$$D \times E - F$$

where

D is the GloBE income or loss of the particular negative tax expense constituent entity for the fiscal year,

E is the minimum rate, and

F is the adjusted covered taxes of the particular negative tax expense constituent entity for the fiscal year; and

C is the total of all amounts each of which is the amount determined for B in this subsection for a negative tax expense constituent entity of the MNE group for the jurisdiction for the fiscal year.

Negative tax expense constituent entity

(3) A **negative tax expense constituent entity**, in respect of an MNE group for a fiscal year, means a standard constituent entity of the MNE group, if the entity’s adjusted covered taxes for the fiscal year is less than each of the following amounts:

(a) nil; and

(b) the amount that would, in the absence of section 8, be determined by the formula

$$A \times B$$

where

A is the GloBE income or loss of the entity for the fiscal year, and

B is the minimum rate.

Jurisdictional excess negative tax expense top-up amount

(4) The *jurisdictional excess negative tax expense top-up amount*, of an MNE group for a jurisdiction for a fiscal year in which its net GloBE income for the jurisdiction is nil and its jurisdictional adjusted covered taxes for the jurisdiction is less than nil, means the amount determined by the formula

$$A - B - C$$

where

A is the amount that would, in the absence of section 8, be determined by the formula

$$D \times E$$

where

D is the total of all amounts each of which is the GloBE income or loss for the fiscal year of a standard constituent entity of the MNE group located in the jurisdiction, and

E is the minimum rate;

B is the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for the fiscal year; and

C is the amount determined by the formula

$$F \times (A - B) / (A - B + G)$$

where

F is the total amount of tax payable for the fiscal year, in respect of the standard constituent entities of the MNE group located in the jurisdiction, under a qualified domestic minimum top-up tax of the jurisdiction, and

G is the total of all adjustment top-up amounts of the MNE group for the jurisdiction for the fiscal year.

Election — excess negative tax expense carry-forward

(5) If the filing constituent entity of an MNE group elects for a jurisdiction for a particular fiscal year, the excess negative tax expense top-up amount of a standard constituent entity of the MNE group located in the jurisdiction for the particular fiscal year is deemed to be the greater of

(a) nil; and

(b) the portion of the excess negative tax expense top-up amount, determined without reference to this subsection, that can reasonably be considered to relate to a tax loss that was carried back from the particular fiscal year to another fiscal year of the MNE group ending before the particular fiscal year and deducted under the income tax law of the jurisdiction in the other fiscal year.

SUBDIVISION C

Substance-based Income Exclusion

Substance-based income exclusion amount

32 (1) Subject to subsection (14), the *substance-based income exclusion amount* of an MNE group for a jurisdiction for a fiscal year means the amount that is no greater than the total of all amounts each of which is determined by the formula

$$A + B$$

where

A is equal to 5% (subject to subsection 47(1)) of the eligible payroll costs of a standard constituent entity of the MNE group located in the jurisdiction for the fiscal year; and

B is equal to 5% (subject to subsection 47(2)) of the eligible tangible asset amount of the standard constituent entity for the fiscal year.

Eligible payroll costs

(2) Subject to subsections (5) and (6) and paragraph 38(1)(d), the **eligible payroll costs** of a particular standard constituent entity of an MNE group for a fiscal year, means all payroll costs (other than excluded costs of the particular standard constituent entity) in respect of eligible employees of any standard constituent entity of the MNE group, incurred

(a) if the particular standard constituent entity is a permanent establishment, by the main entity in respect of the permanent establishment and reflected in the separate financial accounts for the fiscal year of the permanent establishment, as adjusted in accordance with clause 17(1)(b)(ii)(B) or subsection 17(2); and

(b) in any other case, by the particular standard constituent entity and reflected in the particular standard constituent entity's financial accounts for the fiscal year.

Excluded costs

(3) Excluded costs, of a particular standard constituent entity of an MNE group, means any costs if

(a) it is not the case that

(i) the costs are payable primarily in respect of work done in the course of the ordinary operating activities of any standard constituent entity of the MNE group, and

(ii) that work is done in the jurisdiction in which the particular standard constituent entity is located;

(b) the costs are capitalized and included in the carrying value of an asset used to calculate the eligible tangible asset amount of any constituent entity of the MNE group, as determined without reference to subsection (10);

(c) where the particular standard constituent entity is the main entity in respect of a permanent establishment, the costs are reflected in the separate financial accounts of the permanent establishment as adjusted in accordance with clause 17(1)(b)(ii)(B) or subsection 17(2);

(d) the costs are core international shipping costs, or ancillary international shipping costs that can reasonably be considered to be attributable to qualified ancillary international shipping income, of any constituent entity of the MNE group; or

(e) where the particular standard constituent entity is a permanent establishment, the costs can reasonably be considered to be attributable to income that is excluded from the GloBE income or loss of the particular standard constituent entity under paragraph 17(6)(a) or subsection 20(4).

Interjurisdictional employee deeming rule

(4) For the purposes of subparagraph (3)(a)(ii), if an eligible employee of a particular standard constituent entity of an MNE group spends more than 50% of the time that the eligible employee is doing work (referred to in this subsection as the "ordinary course work") in the course of the ordinary operating activities of the standard constituent entities of the MNE group in a fiscal year, in the jurisdiction in which the particular standard constituent entity is located, all the ordinary course work is deemed to be done in the jurisdiction for the fiscal year.

Eligible payroll costs — flow-through entity allocation

(5) If a particular amount would, in the absence of this subsection, be included in the eligible payroll costs of a particular constituent entity that is a flow-through entity for a fiscal year, the following rules apply:

(a) if the particular constituent entity is an ultimate parent entity, the portion of the particular amount that is determined by the following formula is excluded from the eligible payroll costs of the particular constituent entity for the fiscal year:

$$A \times B/C$$

where

- A** is the particular amount,
- B** is the amount of any reduction to the GloBE income of the particular constituent entity for the fiscal year under subsection 20(1), and
- C** is the GloBE income of the particular constituent entity for the fiscal year prior to the reduction referred to in the description of B; and

(b) in any other case,

(i) the eligible payroll costs of the particular constituent entity for the fiscal year are deemed to be nil, and

(ii) if all or any portion of the net income or loss of the particular constituent entity is allocated to one or more of its constituent entity-owners (each referred to in this subparagraph as a “relevant owner”) under paragraph 17(6)(b) for the fiscal year,

(A) the particular amount is allocated to each relevant owner in the same proportion as the financial accounting income is allocated to that relevant owner, and

(B) if the relevant owner is located in the same jurisdiction as the particular constituent entity, any portion of the particular amount that is allocated to a relevant owner under clause (A) is included in the eligible payroll costs of the relevant owner for the fiscal year.

Eligible payroll costs — deductible dividend regime

(6) If a particular amount would, in the absence of this subsection, be included in the eligible payroll costs of a constituent entity that is subject to a deductible dividend regime for a fiscal year, a portion of the particular amount is excluded from the eligible payroll costs of the constituent entity for the fiscal year as determined by the formula

$$A \times B/C$$

where

- A** is the particular amount;
- B** is the total amount of any reductions to the GloBE income of the constituent entity for the fiscal year under subsection 21(1) to (3); and
- C** is the GloBE income of the constituent entity for the fiscal year prior to the reductions referred to in the description of B.

Eligible employee

(7) An *eligible employee*, of a standard constituent entity of an MNE group, means an individual that is

(a) regarded as an employee (or, if a distinction is made, a part-time employee) of the standard constituent entity under the laws of the jurisdiction in which it is located; or

(b) an independent contractor who acts under the direction and control of one or more standard constituent entities of the MNE group.

Eligible tangible asset amount

(8) Subject to subsections (9), (10) and (11) and paragraph 38(1)(d), the *eligible tangible asset amount* of a standard constituent entity for a fiscal year means the amount determined by the formula

$$(A + B)/2$$

where

- A** is the total of all amounts each of which is the carrying value of an eligible tangible asset of the standard constituent entity at the start of the fiscal year; and

B is the total of all amounts each of which is the carrying value of an eligible tangible asset of the standard constituent entity at the end of the fiscal year.

Eligible tangible asset amount — main entity limitation

(9) The eligible tangible asset amount for a fiscal year of a standard constituent entity that is a main entity in respect of a permanent establishment shall not include any amount in respect of the carrying value of an eligible tangible asset held by the standard constituent entity to the extent that the eligible tangible asset is reflected in the separate financial accounts of the permanent establishment as adjusted in accordance with clause 17(1)(b)(ii)(B) or subsection 17(2).

Eligible tangible asset amount — flow-through entity allocation

(10) If a particular amount would, in the absence of this subsection, be included in the eligible tangible asset amount of a constituent entity that is a flow-through entity for a fiscal year, the rules in subsection (5) apply in respect of the particular amount, except that any reference in that subsection to “eligible payroll costs” is to be read as a reference to “eligible tangible asset amount”.

Eligible tangible asset amount — deductible dividend regime

(11) If a particular amount would, in the absence of this subsection, be included in the eligible tangible asset amount of a constituent entity that is subject to a deductible dividend regime for a fiscal year, the rules in subsection (6) apply in respect of the particular amount, except that any reference in that subsection to “eligible payroll costs” is to be read as a reference to “eligible tangible asset amount”.

Eligible tangible asset

(12) An *eligible tangible asset* of a constituent entity at a particular time means an asset that is

(a) held at the particular time by

(i) if the constituent entity is a permanent establishment, the main entity in respect of the permanent establishment, and

(ii) in any other case, the constituent entity;

(b) if the constituent entity is a permanent establishment, reflected in the separate financial accounts of the permanent establishment as adjusted in accordance with clause 17(1)(b)(ii)(B) or subsection 17(2) for the fiscal year that includes the particular time;

(c) any of

(i) property, plant or equipment,

(ii) natural resources,

(iii) a right-of-use asset in respect of the lease of a tangible asset,

(iv) property, all or any portion of which is leased to a person under an operating lease, or

(v) a license from, or similar arrangement with, a government if

(A) the license or arrangement is for the use of immovable property or exploitation of natural resources, and

(B) the use of the property or exploitation of the resources entails significant investment in tangible assets; and

(d) none of the following:

(i) property that is held for sale, lease or investment, or that is leased to a person under a finance lease,

(ii) a tangible asset used in the generation of core international shipping income in the fiscal year that includes the particular time,

(iii) if the constituent entity is a permanent establishment, an asset to the extent it can reasonably be considered to be used in the generation of income that is excluded from the GloBE income or loss of the constituent entity under paragraph 17(6)(a) or subsection 20(4), or

(iv) a right-of-use asset in respect of the lease of a tangible asset that is regularly leased several times to different lessees during the fiscal year, if the average lease period, including any renewals and extensions, with respect to lessees of the asset is 30 days or less (referred to in this section as a “short-term rental asset”).

Eligible tangible asset — carrying value

(13) For the purposes of subsection (8), the carrying value of an eligible tangible asset of a constituent entity of an MNE group at a particular time shall be the carrying value of the eligible tangible asset recorded, or calculated as it would have been if it were recorded, at the particular time for the purposes of preparing the consolidated financial statements of the ultimate parent entity of the MNE group, as reduced (to the extent it has not already been so reduced) by the amount

(a) of any positive difference between the carrying value so determined and the carrying value of the same eligible tangible asset at the time it was most recently acquired by the constituent entity, to the extent such difference is solely attributable to one or more revaluations of the asset;

(b) of any accumulated depreciation, amortization, depletion or impairment loss in respect of the asset;

(c) of the reversal of any impairment loss to the extent that the reversal exceeds the impairment loss;

(d) recorded by another constituent entity of the MNE group in its financial accounts as a right-of-use asset in respect of the eligible tangible asset (other than a short-term rental asset);

(e) of undiscounted payments remaining due, in respect of the eligible tangible asset (other than a short-term rental asset), from a lessee of the eligible tangible asset that is not a constituent entity of the MNE group;

(f) if the eligible tangible asset is used in the generation of qualified ancillary international shipping income of the constituent entity for the fiscal year that includes the particular time, determined by the formula

$$A \times B/C$$

where

A is the carrying value of the eligible tangible asset, determined without reference to this paragraph and paragraph (g),

B is the qualified ancillary international shipping income of the constituent entity for the fiscal year, and

C is the ancillary international shipping income of the constituent entity for the fiscal year; and

(g) determined, for the fiscal year that includes the particular time, by the formula

$$D \times E/F$$

where

D is the carrying value of the eligible tangible asset, determined without reference to this paragraph,

E is

(i) nil, if the eligible tangible asset — or the underlying leased tangible asset, where the condition in subparagraph (12)(c)(iii) is satisfied, or the underlying immovable property or natural resources, where the condition in subparagraph (12)(c)(v) is satisfied — is located in the jurisdiction in which the constituent entity is located for more than 50% of the days in the fiscal year (referred to in this paragraph as the “qualifying days”) that paragraphs (12)(a) and, if the constituent entity is a permanent establishment, 12(b) are satisfied in respect of the eligible tangible asset, and

(ii) the number of qualifying days in which the eligible tangible asset is not located in the jurisdiction in which the constituent entity is located, in any other case, and

F is the number of qualifying days.

Election to disapply exclusion for a jurisdiction

(14) The substance-based income exclusion amount of an MNE group for a jurisdiction for a fiscal year is deemed to be nil if the filing constituent entity of the MNE group elects under this subsection not to apply the substance-based income exclusion for the jurisdiction for the fiscal year.

SUBDIVISION D

De Minimis Jurisdiction Exclusion

De minimis jurisdiction exclusion

33 (1) Notwithstanding sections 30, 31 and 34, the top-up amount for a particular fiscal year of each constituent entity (referred to in this section as an “eligible constituent entity”) of an MNE group located in a jurisdiction that is not a stateless constituent entity, an investment entity or an insurance investment entity is deemed to be nil if

(a) the filing constituent entity of the MNE group elects under this subsection in respect of the jurisdiction for the particular fiscal year;

(b) the amount determined by the following formula is less than €10,000,000:

$$(A + B + C) \div D$$

where

A is the jurisdictional GloBE revenue of the MNE group for the jurisdiction for the particular fiscal year,

B is the jurisdictional GloBE revenue of the MNE group for the jurisdiction for the fiscal year (referred to in this subsection as the “first preceding year”) immediately preceding the particular fiscal year,

C is the jurisdictional GloBE revenue of the MNE group for the jurisdiction for the fiscal year (referred to in this subsection as the “second preceding year”) immediately preceding the first preceding year, and

D is

(i) three, if the jurisdictional GloBE revenue of the MNE group for the jurisdiction is greater than nil – or at least one eligible constituent entity of the MNE group located in the jurisdiction has a GloBE loss – for both the first preceding year and the second preceding year,

(ii) two, if the jurisdictional GloBE revenue of the MNE group for the jurisdiction is greater than nil – or at least one eligible constituent entity of the MNE group located in the jurisdiction has a GloBE loss – for only one of the first preceding year and the second preceding year, and

(iii) one, in any other case; and

(c) the amount determined by the following formula is less than €1,000,000:

$$(E + F + G) \div D$$

where

E is the jurisdictional GloBE income or loss of the MNE group for the jurisdiction for the particular fiscal year,

F is the jurisdictional GloBE income or loss of the MNE group for the jurisdiction for the first preceding year, and

G is the jurisdictional GloBE income or loss of the MNE group for the jurisdiction for the second preceding year.

Jurisdictional GloBE revenue

(2) The *jurisdictional GloBE revenue*, of an MNE group for a jurisdiction for a particular fiscal year, means the total of all amounts determined by the formula

$$A \times B/365$$

where

A is the financial accounting revenue of an eligible constituent entity of the MNE group located in the jurisdiction for the particular fiscal year, subject to any adjustments made in determining the GloBE income or loss of the eligible constituent entity for the particular fiscal year under Division B, subsection 25(6) and paragraphs 27(1)(b), 37(4)(b) and 37(5)(b), other than any adjustment

(a) in respect of expenses; or

(b) that is a decrease to the eligible constituent entity's GloBE income or loss for the particular fiscal year resulting from the application of an ETR adjustment provision in a subsequent fiscal year, and

B is the number of days in the particular fiscal year.

Financial accounting revenue

(3) The *financial accounting revenue*, of an eligible constituent entity of an MNE group for a fiscal year, means the revenue amount for the fiscal year determined for the entity in the manner set out, and in accordance with the principles reflected, in the definition *financial accounting income*, with such modifications as the context requires.

Jurisdictional GloBE income or loss

(4) The *jurisdictional GloBE income or loss*, of an MNE group for a jurisdiction for a particular fiscal year, means the amount that would, in the absence of section 8, be determined by the formula

$$A \times B/365$$

where

A is the total of all amounts each of which is the GloBE income or loss for the particular fiscal year of an eligible constituent entity of the MNE group located in the jurisdiction determined without taking into account any adjustment that is a decrease to the eligible constituent entity's GloBE income or loss for the particular fiscal year resulting from the application of an ETR adjustment provision in a subsequent fiscal year; and

B is the number of days in the particular fiscal year.

SUBDIVISION E

Top-up Amount of a Minority-owned Constituent Entity

Deeming rule — minority-owned subgroup

34 (1) For the purposes of sections 29, 30 and 31 and subsections 32(1), (4), (7) and (14), each minority-owned constituent entity that would, in the absence of this section, be a constituent entity of an MNE group is deemed not to be a constituent entity of the MNE group.

Minority-owned constituent entity — top-up amount

(2) The top-up amount of a minority-owned constituent entity (other than an investment entity or an insurance investment entity) of a minority-owned subgroup located in a jurisdiction for a fiscal year is the amount that would be determined under subsection 30(1) if the references in sections 29, 30 and 31 and subsections 32(1), (2), (3), (4), (7), (8), (9) and (14) to "MNE group" and "standard constituent entity" were read as references to "minority-owned subgroup" and "minority-owned constituent entity (other than an investment entity or an insurance investment entity)", respectively.

Interpretation rule

(3) For the purposes of determining the top-up amount of a minority-owned constituent entity under subsection (2), subsection 21(3) and sections 37 to 39, 41 and 42 shall apply with such modifications, if any, as the context requires.

Allocation of minority-owned constituent entity top-up amount

(4) For the purposes of Division A, the GloBE income of a minority-owned constituent entity of a minority-owned subgroup located in a jurisdiction for a fiscal year, is

(a) if the net GloBE income of the minority-owned subgroup for the jurisdiction for the fiscal year, as computed in determining the top-up amount of the minority-owned constituent entity under subsection (2), is nil, the GloBE income that would be determined under subsection 15(5) if the net GloBE income, and the allocated adjustment top-up amount and excess negative tax expense top-up amount of the minority-owned constituent entity, were the amounts computed in determining the top-up amount of the minority-owned constituent entity under subsection (2); and

(b) in any other case, the GloBE income computed in determining the minority-owned constituent entity's top-up amount under subsection (2).

SUBDIVISION F

Top-up Amount of a Joint Venture Entity

Joint venture top-up amount

35 (1) The top-up amount of a joint venture entity of a joint venture group for a fiscal year shall be the amount that would be determined under subsections 30(1), 34(2) and 36(2), if

(a) all references in Part I and Divisions B and C, subdivisions A to E, G and H of this Division, Divisions E to G and subdivision B of Division H of this Part to

(i) “MNE group” and “ultimate parent entity” were read as references to “joint venture group” and “joint venture parent”, respectively, and

(ii) “standard constituent entity” or “constituent entity” were read as references to “joint venture entity”;

(b) for greater certainty, the GloBE income or loss and adjusted covered taxes, as well as all the amounts that are to be computed under subdivisions A to E, G and H of this Division and Divisions E to G in determining the top-up amount of the joint venture entity, were determined

(i) applying the rules in paragraph (a), and

(ii) based on the assumption that the joint venture group was a separate MNE group of which the joint venture parent was the ultimate parent entity and the joint venture entities were the only constituent entities; and

(c) for the purposes of this subsection, any other modifications were made to Divisions B and C, this Division, Divisions E to G and subdivision B of Division H as the context requires.

Allocation of joint venture top-up amount

(2) For the purposes of Division A and Division B of Part VI,

(a) any joint venture parent in respect of a qualifying MNE group, and any joint venture subsidiary of that joint venture parent, is deemed to be a constituent entity but not a parent entity of the qualifying MNE group; and

(b) the GloBE income of a joint venture entity of a joint venture group located in a jurisdiction for a fiscal year, is

(i) if the net GloBE income of the joint venture group for the jurisdiction for the fiscal year, as computed in determining the top-up amount of the joint venture entity under subsection (1), is nil, the GloBE income that would be

determined under subsection 15(5) if the net GloBE income, and the allocated adjustment top-up amount and excess negative tax expense top-up amount of the joint venture entity, were the amounts computed in determining the top-up amount of the joint venture entity under subsection (1); and

(ii) in any other case, the GloBE income computed in determining the joint venture entity's top-up amount under subsection (1).

Permanent establishment — deemed joint venture subsidiary

(3) For the purposes of this section, if the main entity in respect of a permanent establishment is a joint venture parent, or a joint venture subsidiary of the joint venture parent, the permanent establishment is deemed to be a joint venture subsidiary of the joint venture parent separate and distinct from the main entity and any other permanent establishment of the main entity that is also deemed to be a joint venture subsidiary under this subsection.

SUBDIVISION G

Top-up Amount of an Investment Entity

Definitions

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

election percentage, of an investment subgroup entity for a fiscal year, means the percentage of the GloBE income or loss of the investment subgroup entity for the fiscal year that is attributable (based on the relevant assumptions) to any ownership interests in the investment subgroup entity that are subject to an election under subsections 41(1) or 42(1) that applies in respect of the fiscal year. (*pourcentage du choix*)

investment entity adjusted covered taxes amount means the amount that would, in the absence of section 8, be determined in respect of an investment subgroup entity for a fiscal year by the formula

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

where

A is the amount of adjusted covered taxes of the investment subgroup entity for the fiscal year;

B is the minority investor percentage of the investment subgroup entity for the fiscal year; and

C is the election percentage of the investment subgroup entity for the fiscal year. (*montant ajusté des impôts concernés de l'entité d'investissement*)

investment entity GloBE income amount means the amount that would, in the absence of section 8, be determined in respect of an investment subgroup entity for a fiscal year by the formula

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

where

A is the GloBE income or loss of the investment subgroup entity for the fiscal year;

B is the minority investor percentage of the investment subgroup entity for the fiscal year; and

C is the election percentage of the investment subgroup entity for the fiscal year. (*montant du revenu GloBE de l'entité d'investissement*)

investment subgroup means, in respect of an MNE group, all investment subgroup entities of the MNE group. (*sous-groupe d'investissement*)

investment subgroup entity, of an MNE group, means a constituent entity of the MNE group that is an investment entity or an insurance investment entity. (*entité de sous-groupe d'investissement*)

minority investor percentage, of an investment subgroup entity for a fiscal year, means the percentage of the GloBE income or loss of the investment subgroup entity for the fiscal year that is attributable (based on the relevant assumptions) to any ownership interest in the investment subgroup entity, other than any ownership interest held, directly or indirectly, by the ultimate parent entity of the MNE group of which the investment subgroup entity is a constituent entity. (*pourcentage de l'investisseur minoritaire*)

minority-owned investment entity, of a minority-owned subgroup of an MNE group, means a constituent entity of the MNE group that is

- (a) an investment entity or an insurance investment entity; and
- (b) included in the minority-owned subgroup. (*entité d'investissement à détention minoritaire*)

minority-owned investment subgroup means, in respect of a minority-owned subgroup, all minority-owned investment entities of the minority-owned subgroup. (*sous-groupe d'investissement à détention minoritaire*)

relevant assumptions, in respect of an attribution of GloBE income or loss for a fiscal year to an ownership interest in an investment subgroup entity, means the assumptions that

- (a) the principles of the authorized financial accounting standard applicable in the preparation of the consolidated financial statements for the fiscal year of the ultimate parent entity of the MNE group that includes the investment subgroup entity are used for the purposes of the attribution;
- (b) the net income of the investment subgroup entity is equal to its GloBE income or loss; and
- (c) no amount of the GloBE income or loss of the investment subgroup entity is attributable to transactions with other group entities of the MNE group. (*hypothèses pertinentes*)

Investment subgroup entity — top-up amount

(2) Subject to subparagraphs 42(1)(d)(ii) and (e)(ii), the top-up amount of an investment subgroup entity of an investment subgroup in respect of a particular MNE group for a fiscal year is the amount determined under subsection 30(1) applying the following rules:

- (a) any references in sections 29 to 32 and 34 to
 - (i) “MNE group”, except the reference to that term in the expression “ultimate parent entity of the MNE group” in subsection 32(13) which is to be read as a reference to “ultimate parent entity of the MNE group in which the investment subgroup is included”, are to be read as references to “investment subgroup”,
 - (ii) “standard constituent entity” or “constituent entity” are to be read as references to “investment subgroup entity”,
 - (iii) “GloBE income or loss”, except the references to that term in subsection 31(1), paragraph 32(3)(e) and subparagraph 32(12)(d)(iii), are to be read as references to “investment entity GloBE income amount”,
 - (iv) “GloBE income”, except the references to that term in paragraph 32(5)(a) and subsection 32(6), are to be read as references to “positive investment entity GloBE income amount”,
 - (v) “GloBE loss” are to be read as references to “negative investment entity GloBE income amount”,
 - (vi) “adjusted covered taxes”, except references to that term in subsection 31(1), are to be read as references to “investment entity adjusted covered taxes amount”,
 - (vii) “minority-owned subgroup” are to be read as references to “minority-owned investment subgroup”, and
 - (viii) “minority-owned constituent entity (other than an investment entity or an insurance investment entity)” are to be read as references to “minority-owned investment entity”;

(b) for greater certainty, all other amounts that are to be determined under sections 29 to 32 and 34 in determining the top-up amount of an investment subgroup entity of an investment subgroup are to also be determined applying the rules in paragraph (a);

(c) the amounts that would, in the absence of this paragraph, be determined for A and B in the formula in subsection 32(1) in respect of the investment subgroup entity are to be multiplied by the ratio determined by the formula

$$A/B$$

where

A is the investment entity GloBE income amount of the investment subgroup entity for the fiscal year, and

B is the GloBE income or loss of the investment subgroup entity for the fiscal year;

(d) notwithstanding paragraph (a), all references to “fiscal year” in sections 29 to 32 and 34 are to the fiscal year of the MNE group; and

(e) any other modifications are made to sections 29 to 32 and 34 as the context requires.

Interpretation rule

(3) For the purposes of determining the top-up amount of an investment subgroup entity under subsection (2), subsection 21(3) and sections 37 to 39, 41 and 42 shall apply with such modifications, if any, as the context requires.

Allocation of investment subgroup entity top-up amount

(4) For the purposes of Division A, the GloBE income of an investment subgroup entity of an investment subgroup located in a jurisdiction for a fiscal year, is

(a) if the net GloBE income of the investment subgroup for the jurisdiction for the fiscal year, as computed in determining the top-up amount of the investment subgroup entity under subsection (2), is nil, the GloBE income that would be determined under subsection 15(5) if the net GloBE income, and the allocated adjustment top-up amount and excess negative tax expense top-up amount of the investment subgroup entity, were the amounts computed in determining the top-up amount of the investment subgroup entity under subsection (2); and

(b) in any other case, the GloBE income computed in determining the investment subgroup entity’s top-up amount under subsection (2).

SUBDIVISION H

Eligible Distribution Tax Systems

Deemed distribution tax — rules

37 (1) If the filing constituent entity of an MNE group elects under this subsection, in respect of a jurisdiction that has an eligible distribution tax system, for a fiscal year (referred to in this subsection as the “election year”):

(a) the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for the election year is deemed to be equal to the jurisdictional adjusted covered taxes determined without reference to this paragraph, as increased by an amount equal to the deemed distribution tax of the MNE group for the jurisdiction for the election year;

(b) a deemed distribution tax recapture account of the MNE group is established in respect of the jurisdiction for the election year, and

(i) the account shall be maintained and recorded by the MNE group, and

(ii) a record of the account shall be made available at the request of the Minister for examination or inspection by any person authorized by the Minister for that purpose;

(c) subject to subsections (4) and (5), the outstanding balance of the deemed distribution tax recapture account is determined by undertaking the following operations:

(i) at the end of the election year, the balance is increased by the amount of the deemed distribution tax of the MNE group for the jurisdiction for the election year, and

(ii) at the end of each fiscal year (referred to in this paragraph as a “subsequent year”) following the election year, the outstanding balances of the deemed distribution tax recapture accounts in respect of the jurisdiction established for fiscal years preceding the subsequent year are reduced, but not below zero, in chronological order

(A) first by the taxes accrued by any standard constituent entities of the MNE group located in the jurisdiction during the subsequent year in relation to an actual or deemed distribution of profits,

(B) then by the amount of any net GloBE loss of the MNE group for the jurisdiction for the subsequent year multiplied by the minimum rate, and

(C) then by the recapture account loss carry-forward of the MNE group for the jurisdiction for the subsequent year; and

(d) any amount of tax accrued by a standard constituent entity of an MNE group in relation to an actual or deemed distribution of profits shall not be included in the adjusted covered taxes of that entity for any fiscal year to the extent that the amount is applied as a reduction under clause (c)(ii)(A) in determining the outstanding balance of any deemed distribution tax recapture account of the MNE group.

Deemed distribution tax — meaning

(2) The *deemed distribution tax*, of an MNE group for a jurisdiction for a fiscal year, means the lesser of

(a) the amount determined by the formula

$$A \times B - C \times B$$

where

A is the minimum rate,

B is the net GloBE income of the MNE group for the jurisdiction for the fiscal year, and

C is the rate that would be the effective tax rate of the MNE group for the jurisdiction for the fiscal year if

(i) it were determined without reference to this section, and

(ii) paragraph 29(1)(b) were applied without reference to section 8 and read without reference to subparagraph (i) in the description of B in the formula in that paragraph; and

(b) the amount of tax that would be payable in respect of the standard constituent entities of the MNE group under the eligible distribution tax system of the jurisdiction for the fiscal year, if all the standard constituent entities of the MNE group located in the jurisdiction had distributed all of their income that was subject to the eligible distribution tax system during the fiscal year.

Recapture account loss carry-forward — meaning

(3) The *recapture account loss carry-forward*, of an MNE group for a jurisdiction for a particular fiscal year, means the amount determined by the formula

$$A - B$$

where

A is the total of all amounts each of which is determined by the formula

$$C - D$$

where

- C is the amount determined under clause (1)(c)(ii)(B) for the jurisdiction for any fiscal year preceding the particular fiscal year, and
 - D is the total of all amounts each of which is a portion of the amount determined for C that was applied at the end of the preceding fiscal year referred to in the description of C as a reduction under clause (1)(c)(ii)(B) in determining the balance of a deemed distribution tax recapture account of the MNE group for the jurisdiction; and
- B is the total of all amounts each of which is the portion of a recapture account loss carry-forward of the MNE group for the jurisdiction for a fiscal year preceding the particular fiscal year that was applied as a reduction under clause (1)(c)(ii)(C) in determining the balance of a deemed distribution tax recapture account of the MNE group for the jurisdiction.

ETR adjustment provision — four-year rule

(4) If the outstanding balance of a deemed distribution tax recapture account of an MNE group in respect of a jurisdiction for a particular fiscal year is greater than nil at the end of the fourth fiscal year (referred to in this subsection as the “recapture year”) immediately following the particular fiscal year

- (a) this subsection applies in the recapture year;
- (b) for the purposes of applying subsection 31(1), the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for the particular fiscal year (being the adjustment year) is deemed to be equal to the jurisdictional adjusted covered taxes, determined without reference to subsection 31(1) and this subsection, as reduced by an amount equal to the outstanding balance of the deemed distribution tax recapture account at the end of the recapture year; and
- (c) for the purposes of applying subparagraph (1)(c)(ii), at the end of any fiscal year following the recapture year, the outstanding balance of the deemed distribution tax recapture account is deemed to be nil.

ETR adjustment provision — departing constituent entity

(5) In the fiscal year (referred to in this subsection as the “departure year”) in which a departing constituent entity of an MNE group located in a jurisdiction leaves the MNE group or transfers substantially all of its assets to a recipient that is not, at the time of the transfer, a standard constituent entity of the MNE group located in the jurisdiction

- (a) this subsection shall apply;
- (b) for the purposes of applying subsection 31(1), the jurisdictional adjusted covered taxes of the MNE group for the jurisdiction for a fiscal year preceding the departure year (referred to in this subsection as a “pre-departure year”) for which the outstanding balance of the deemed distribution tax recapture account at the end of the departure year is greater than nil (each of those pre-departure years being an adjustment year), is deemed to be equal to the jurisdictional adjusted covered taxes for that pre-departure year, determined without reference to subsection 31(1) and this subsection, as reduced by an amount (referred to in this subsection as a “recapture amount”) equal to the outstanding balance of the deemed distribution tax recapture account for that pre-departure year at the end of the departure year; and
- (c) for the purposes of applying this Act at any time after the departure year, each of the outstanding balance of the deemed distribution tax recapture account at the end of the departure year, net GloBE income, jurisdictional adjusted covered taxes and substance-based income exclusion amount of the MNE group for the jurisdiction for a pre-departure year that is an adjustment year is deemed to be the amount determined without reference to this paragraph (referred to in this paragraph as “the amount otherwise determined”), as reduced by the product obtained by multiplying the amount otherwise determined by the disposition recapture ratio of the departing constituent entity for the pre-departure year.

Disposition recapture ratio — meaning

(6) The *disposition recapture ratio* of a departing constituent entity of an MNE group for a jurisdiction for a fiscal year means the lesser of

- (a) one; and

(b) the amount determined by the formula

$$A \div B$$

where

A is the GloBE income of the departing constituent entity for the fiscal year; and

B is the net GloBE income of the MNE group for the jurisdiction for the fiscal year.

DIVISION E

Reorganizations and Asset Transfers

Constituent entities joining and leaving MNE group

38 (1) Subject to subsection (2), if an entity (referred to in this subsection as the “transferred entity”) ceases to be a constituent entity of an MNE group (referred to in this subsection as the “MNE group” or the “disposing MNE group”), or becomes a constituent entity of an MNE group (referred to in this subsection as the “MNE group” or the “acquiring MNE group”) – including where the entity becomes the ultimate parent entity of an MNE group – as a result of a transfer, in a fiscal year (referred to in this section as the “transfer year”) of the MNE group, of ownership interests in the transferred entity or in another entity that holds, directly or indirectly, an ownership interest in the transferred entity, the following rules apply:

(a) the transferred entity shall be treated as a constituent entity of the MNE group for the transfer year, if any portion of the transferred entity’s assets, liabilities, income, expenses or cash flows is included on a line-by-line basis in the consolidated financial statements of the ultimate parent entity of the MNE group for the fiscal year;

(b) any portion of the transferred entity’s financial accounting income and adjusted covered taxes that is not taken into account in the consolidated financial statements of the ultimate parent entity of the MNE group for the transfer year shall not be taken into account in determining any amount under this Act in respect of the MNE group for the transfer year;

(c) the transferred entity’s GloBE income or loss and adjusted covered taxes, for the transfer year and any subsequent fiscal years, shall be determined using its historical carrying value of its assets and liabilities;

(d) in determining the substance-based income exclusion amount of the MNE group for the jurisdiction in which the transferred entity is located for the transfer year under subsection 32(1),

(i) any portion of the transferred entity’s eligible payroll costs that is not taken into account in the preparation of the consolidated financial statements of the ultimate parent entity of the MNE group for the transfer year shall not be taken into account, and

(ii) the eligible tangible asset amount of the transferred entity for the transfer year shall not exceed the amount determined by the formula

$$A \times B/C$$

where

A is the amount that would be the transferred entity’s eligible tangible asset amount for the transfer year as determined under subsection 32(8) if that subsection were applied without reference to this subparagraph,

B is

(A) if the MNE group is an acquiring MNE group, the total number of days in the transfer year less the number of days in the transfer year preceding and including the day on which the disposition occurred, and

(B) if the MNE group is a disposing MNE group, the total number of days in the transfer year less the number of days in the transfer year following the day on which the disposition occurred, and

C is the total number of days in the transfer year;

(e) deferred tax assets (other than GloBE loss deferred tax assets) and deferred tax liabilities of the transferred entity that arose, and did not reverse, before the transfer shall be taken into account, in the transfer year and any subsequent fiscal years, in determining amounts under this Act in respect of the acquiring MNE group, in the same manner and to the same extent as if the ultimate parent entity of the acquiring MNE group had a controlling interest in respect of the transferred entity in the period that

(i) began with the time at which the deferred tax asset or deferred tax liability arose, and

(ii) ended at the time of the transfer;

(f) for the purposes of applying section 25 in determining the transferred entity's total deferred tax adjustment amount,

(i) any deferred tax liability (referred to in this paragraph as the "transferred deferred tax liability") that was taken into account in determining the transferred entity's total deferred tax adjustment amount for a fiscal year in respect of the disposing MNE group and that has not reversed in or before the transfer year the transfer, is deemed

(A) in respect of the disposing MNE group, to reverse in the group's fiscal year immediately preceding the transfer year, and

(B) in respect of the acquiring MNE group, to have arisen in, and been included in determining the transferred entity's total deferred tax adjustment amount for, the transfer year; and

(ii) if the transferred deferred tax liability does not reverse in any of the five fiscal years of the acquiring MNE group immediately following the transfer year, the reduction in adjusted covered taxes under subsection 25(6) in respect of the recapture of the transferred deferred tax liability shall be applied in the fifth fiscal year immediately following the transfer year instead of in the transfer year; and

(g) if the transferred entity is a relevant parent entity of two or more qualifying MNE groups for the transfer year, the transferred entity is to apply sections 14 and 18 separately in respect of each of those MNE groups for the transfer year.

Transfers treated as transfers of assets and liabilities — application

(2) Notwithstanding subsection (1), the acquisition or disposition by a constituent entity of an MNE group of a controlling interest in another entity (referred to in this subsection as the "transferred entity") shall be treated as an acquisition or disposition, as the case may be, of the assets and liabilities of the transferred entity for the purposes of section 39, if

(a) the disposition – or the disposition giving rise to the acquisition, as the case may be – is treated in the same or substantially similar manner as a disposition of the transferred entity's assets and liabilities under the laws of

(i) if the transferred entity is a tax transparent entity at the time of the disposition, the jurisdiction in which the assets of the transferred entity are located, or

(ii) in any other case, the jurisdiction in which the transferred entity is located; and

(b) the jurisdiction referred to in subparagraph (a)(i) or (ii), as the case may be, imposes a covered tax on the transferor in respect of the disposition – or the disposition giving rise to the acquisition, as the case may be – that is calculated by reference to the amount by which the consideration paid or payable on the disposition, or the fair value of the assets and liabilities, exceeds the transferred entity's tax basis in respect of the assets and liabilities.

Acquisitions and dispositions of assets and liabilities — no GloBE reorganization

39 (1) If a constituent entity of an MNE group disposes of or acquires assets and liabilities (other than in the course of a GloBE reorganization) in a fiscal year,

(a) in the case of a disposition, any gain or loss on the disposition is to be included in determining the disposing constituent entity's GloBE income or loss for the year; and

(b) in the case of an acquisition, the GloBE income or loss of the acquiring constituent entity is to be determined using

(i) if subsection 38(2) applies to treat the acquiring constituent entity as having acquired the assets and liabilities, the fair value of the assets and liabilities, and

(ii) in any other case, the acquiring constituent entity's carrying value of the acquired assets and liabilities immediately after the acquisition, determined under the accounting standard used in preparing the consolidated financial statements of the ultimate parent entity of the MNE group.

Transfers of assets and liabilities — GloBE reorganization

(2) If a constituent entity of an MNE group disposes of or acquires assets and liabilities in a fiscal year in the course of a GloBE reorganization

(a) subsection (1) shall not apply in respect of the disposition or acquisition;

(b) in the case of a disposition, in computing the disposing constituent entity's GloBE income or loss for the fiscal year,

(i) if the disposition gives rise to a non-qualifying gain or loss, the non-qualifying gain or loss shall be included, and

(ii) in any other case, any gain or loss on the disposition shall be excluded; and

(c) in the case of an acquisition, the acquiring constituent entity's GloBE income or loss for the fiscal year and each subsequent fiscal year shall be determined using the disposing constituent entity's carrying values of the assets and liabilities immediately before the disposition, adjusted, in a manner consistent with the income tax laws of the jurisdiction in which the acquiring constituent entity is located, to take into account any non-qualifying gain or loss arising from the disposition.

Election to adjust assets and liabilities to fair value

(3) If the filing constituent entity elects for a particular fiscal year in respect of a particular constituent entity of the MNE group that is required or permitted, under the income tax laws of the jurisdiction where it is located, to adjust the basis of its assets or the amount of its liabilities (referred to in this subsection as "adjusted assets" and "adjusted liabilities") for tax purposes to fair value in the particular fiscal year as a result of a transaction or event (referred to in this subsection as the "triggering event"), other than a triggering event that is a sale of assets in the ordinary course of a business or the application of a transfer pricing provision under the income tax laws, the following rules apply:

(a) the fair value for financial accounting purposes of an adjusted asset or adjusted liability immediately after the triggering event is to be used in determining the particular constituent entity's GloBE income or loss for the particular fiscal year and each subsequent fiscal year;

(b) for the purposes of determining the particular constituent entity's GloBE income or loss, the particular constituent entity's

(i) gain, if any, in respect of an adjusted asset or adjusted liability is the amount determined by the formula

$$A - B - C$$

where

A is the fair value of the asset or liability immediately after the triggering event,

B is the carrying value of the asset or liability for financial accounting purposes immediately before the triggering event, and

C is the non-qualifying gain, if any, in respect of the asset or liability arising in connection with the triggering event, and

(ii) loss, if any, in respect of an adjusted asset or adjusted liability is the amount determined by the formula

$$B - A - D$$

where

D is the non-qualifying loss, if any, in respect of the asset or liability arising in connection with the triggering event;

(c) the net total amount of the gains and losses determined under paragraph (b) shall be

(i) included in computing the particular constituent entity's GloBE income or loss for the particular fiscal year, or

(ii) divided into five equal amounts to be included in computing the particular constituent entity's GloBE income or loss for the particular fiscal year and the four immediately following fiscal years; and

(d) if subparagraph (c)(ii) applies and the particular constituent entity leaves the MNE group in any of the five fiscal years referred to in that subparagraph, any portion of the net total amount referred to in paragraph (c) that has not been included in computing the particular constituent entity's GloBE income or loss for a previous fiscal year is to be included in computing its GloBE income or loss for the final fiscal year in which it was a constituent entity of the MNE group.

DIVISION F

Multi-parented MNE Groups

Multi-parented MNE group rules

40 (1) For the purposes of this Act except this section and subparagraph 14(3)(c)(ii), the following rules apply in respect of a multi-parented MNE group:

(a) all the entities of all the groups (referred to in this section as the "constituent groups") comprising the multi-parented MNE group are deemed to be entities of a single MNE group that is the multi-parented MNE group;

(b) all the entities (other than excluded entities) of all the constituent groups are deemed to be constituent entities of the single MNE group;

(c) references to the "consolidated financial statements" of an ultimate parent entity in this Act are to be read as references to the financial statements described in either paragraph (f) in the definition *dual-listed arrangement*, or paragraph (e) in the definition *stapled structure*, in subsection 4(1), as applicable, and the financial accounting standard used in the preparation of those financial statements is deemed to be the accounting standard of the ultimate parent entities of each of the constituent groups;

(d) the ultimate parent entity of each constituent group is deemed to be an ultimate parent entity of the single MNE group; and

(e) references to "ultimate parent entity" in this Act shall be read as references to all of the ultimate parent entities of the constituent groups, as the context requires.

Deemed group entities

(2) If a particular entity would be included in a particular constituent group of a multi-parented MNE group if all the ownership interests in the particular entity held by group entities of the constituent groups of the multi-parented MNE group were held by a single group entity (other than the particular entity) of the particular constituent group, the particular entity is deemed

(a) for the purposes of subsection (1) and subsection 11(1), to be included in the particular constituent group; and

(b) for the purposes of section 35, not to be a joint venture parent or a joint venture subsidiary in respect of any of the constituent groups of the multi-parented MNE group.

DIVISION G

Elections in relation to Investment Entities

SUBDIVISION A

Tax Transparency Election

Investment entity tax transparency election

41 (1) A constituent entity, of an MNE group, that is an investment entity or an insurance investment entity is deemed to be a tax transparent entity in relation to a constituent entity-owner of the constituent entity, if

(a) the filing constituent entity of the MNE group elects in respect of the constituent entity-owner under this subsection; and

(b) either

(i) each of the following conditions are met:

(A) the constituent entity-owner is subject to tax in the jurisdiction where it is located under a mark-to-market or similar regime based on the annual changes in fair value of its ownership interest in the constituent entity, and

(B) under that regime, the tax rate applicable to the constituent entity-owner with respect to those annual changes in fair value is greater than or equal to the minimum rate, or

(ii) the constituent entity-owner is a mutual insurance company.

Indirect constituent entity-owners

(2) For the purposes of clause (1)(b)(i)(A), a constituent entity-owner is deemed to be subject to tax in the jurisdiction where it is located under a mark-to-market or similar regime with respect to its indirect ownership interest in an investment entity or an insurance investment entity, if the constituent entity-owner

(a) holds that ownership interest through one or more other investment entities or insurance investment entities; and

(b) is subject to tax in the jurisdiction where it is located under a mark-to-market or similar regime with respect to all its direct ownership interests in any entity described in paragraph (a).

Five-year election

(3) The following rules apply in respect of an election made under subsection (1):

(a) the election is a five-year election; and

(b) if the election is revoked at any time, for the purpose of determining the GloBE income or loss of the investment entity or insurance investment entity in respect of which the election was made after that time, any gain or loss from the disposition after that time of an asset or liability held by the entity shall be determined based on

(i) if the entity's assets and liabilities are accounted for on a fair value basis, the fair value of the asset or liability on the first day of the fiscal year in which the disposition occurs, and

- (ii) in any other case, the fair value of the asset or liability on the first day of the revocation year.

SUBDIVISION B

Taxable Distribution Method Election

Taxable distribution method

42 (1) If the filing constituent entity elects under this section in respect of a qualifying owner's ownership interest in an investment entity or insurance investment entity (referred to in this section as the "investment entity") and an election under subsection 41(1) is not in effect in relation to that ownership interest, the following rules apply in respect of fiscal years to which the election applies (each referred to in this section as an "election year" or a "tested year"):

- (a) the election is a five-year election;
- (b) distributions and deemed distributions of amounts out of the investment entity's GloBE income for an election year are included in computing the GloBE income or loss of the qualifying owner for the election year in which it receives the distribution;
- (c) any amount in respect of covered taxes paid or payable by the investment entity that is allowed as a credit against the tax liability of the qualifying owner, in respect of a distribution from the investment entity, arising in an election year is included for that election year in computing the qualifying owner's

- (i) GloBE income or loss, and

- (ii) adjusted covered taxes;

- (d) for the particular election year that is the third fiscal year immediately following a tested year:

- (i) for the purposes of subsection 15(3), the GloBE income of the investment entity for the particular election year is deemed to be equal to the total of all amounts, each of which is

- (A) the proportionate share — of a qualifying owner in respect of whose ownership interest in the investment entity an election under this subsection applies — of the investment entity's undistributed net GloBE income for the tested year, and

- (B) the GloBE income, if any, of the investment entity for the particular election year attributable to any ownership interests in the investment entity in respect of which an election under this subsection does not apply, and

- (ii) the top-up amount of the investment entity for the particular year, determined in the absence of this subparagraph, is increased by the amount determined by the formula

$$A \times B$$

where

- A is the total of all amounts described in clause (i)(A), and

- B is the minimum rate;

- (e) if the election is revoked,

- (i) for the purposes of subsection 15(3), the GloBE income of the investment entity for the revocation year is deemed to be equal to the total of all amounts, each of which is

- (A) the proportionate share — of a qualifying owner in respect of whose ownership interest in the investment entity an election under this subsection applies — of the investment entity's undistributed net GloBE income for any of the three tested years immediately preceding the revocation year, and

(B) the GloBE income, if any, of the investment entity for the revocation year attributable to any ownership interests in the investment entity in respect of which an election under this subsection does not apply, and

(ii) the top-up amount of the investment entity for the revocation year, determined in the absence of this subparagraph, is increased by the amount determined by the formula

$$A \times B$$

where

A is the total of all amounts described in clause (i)(A), and

B is the minimum rate; and

(f) the investment entity's GloBE income or loss for an election year that is attributable to any ownership interests in respect of which an election under this subsection applies, and any adjusted covered taxes in respect of that GloBE income or loss, are excluded from all computations of effective tax rates and top-up amounts under this Act, other than as provided in paragraphs (c) to (e).

Undistributed net GloBE income

(2) The *undistributed net GloBE income*, of an investment entity for a tested year, means the amount determined by the formula

$$A - B$$

where

A is the investment entity's GloBE income for the tested year (which, for greater certainty, does not include any amount deemed to be included in the investment entity's GloBE income for that tested year because of clause (1)(d)(i)(A) or (1)(e)(i)(A)), and

B is the total of all amounts, other than to the extent the amounts are taken into account as reductions in computing the undistributed net GloBE income of the investment entity for a previous tested year, each of which is

(a) covered taxes paid or payable by the investment entity for the tested year;

(b) a distribution or deemed distribution by the investment entity that is received by shareholders (other than other investment entities) in the testing period in respect of the tested year;

(c) the investment entity's GloBE loss for a fiscal year within the testing period in respect of the tested year; or

(d) a GloBE loss of the investment entity for an election year that precedes the tested year, to the extent the loss was not taken into account as a reduction in computing the investment entity's undistributed net GloBE income for any tested year preceding the tested year.

Qualifying owner

(3) A *qualifying owner* of an investment entity means an entity if

(a) the entity

(i) is a group entity in respect of the investment entity,

(ii) is not an investment entity, and

(iii) holds an ownership interest in the investment entity; and

(b) it can reasonably be expected that the aggregate of the tax payable by the entity in respect of distributions from the investment entity and the tax payable by the entity in respect of the distributed profits is equal to or greater than the amount of the distributions multiplied by the minimum rate.

Testing period

(4) The *testing period*, in respect of the undistributed net GloBE income of an investment entity for a tested year, means the tested year and

- (a)** if any of the three fiscal years immediately following the tested year is a revocation year, any fiscal years following the tested year that precede the revocation year; and
- (b)** in any other case, the three fiscal years immediately following the tested year.

Deemed distribution — transfer of ownership interest

(5) For the purposes of this section, if, in an election year, a qualifying owner (referred to in this subsection as the “transferor”) transfers an ownership interest in an investment entity in respect of which an election under subsection (1) applies to a person that is not a group entity in respect of the transferor,

- (a)** the transfer is treated as a deemed distribution by the investment entity to the transferor; and
- (b)** the amount of the deemed distribution is the amount determined by the formula

$$A \times B/C$$

where

- A** is the total of all amounts, each of which is the transferor’s proportionate share of the investment entity’s undistributed net GloBE income (determined without reference to the deemed distribution), immediately before the transfer, for a tested year that is any of the three fiscal years immediately preceding the transfer year,
- B** is the value of the transferred ownership interest, and
- C** is the total value of all the ownership interests in the investment entity.

DIVISION H

Safe Harbours and Simplifications

SUBDIVISION A

Permanent Safe Harbours

Qualified domestic minimum top-up tax safe harbour

43 The top-up amount of a particular constituent entity of an MNE group or particular joint venture entity in respect of an MNE group (referred to in this section as the “particular entity”) is deemed to be nil for a fiscal year, if

- (a)** the particular entity is
 - (i)** located in a jurisdiction that has a qualified domestic minimum top-up tax for the fiscal year, or
 - (ii)** a stateless entity the top-up amount of which is subject to that tax in the jurisdiction;
- (b)** the jurisdiction’s qualified domestic minimum top-up tax has qualified domestic minimum top-up tax safe harbour status for the fiscal year as determined by the Inclusive Framework and published on the Internet website of the OECD;
- (c)** the filing constituent entity in respect of the MNE group is permitted to elect the qualified domestic minimum top-up tax safe harbour for the fiscal year in respect of the particular entity; and
- (d)** the filing constituent entity in respect of the MNE group elects to apply the qualified domestic minimum top-up tax safe harbour for the fiscal year in respect of the particular entity.

SUBDIVISION B

Transitional Safe Harbours

Definitions — transitional CbCR safe harbour

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

net unrealized fair value loss means the total of all amounts each of which is the loss of a standard constituent entity of the MNE group located in a jurisdiction arising from changes in fair value of ownership interests (other than portfolio holdings), as reduced by the total amount of gains of such entities arising from such changes. (*perte nette non réalisée de la juste valeur*)

profit (loss) before income tax, of an MNE group in a jurisdiction for a fiscal year, means profit (loss) before income tax in the jurisdiction as reported on the MNE group's qualified country-by-country report, that is attributable to standard constituent entities, adjusted to exclude any net unrealized fair value loss in the jurisdiction that exceeds €50,000,000. (*bénéfice (perte) avant impôt*)

qualified country-by-country report means a country-by-country report, in respect of an MNE group, that

- (a) is filed in accordance with the OECD's guidance on country-by-country reporting;
- (b) is prepared on the basis of qualified financial statements of the MNE group; and
- (c) in the case of a multi-parented MNE group, includes the information of all constituent entities of the multi-parented MNE group. (*déclaration pays par pays admissible*)

qualified financial statements of an MNE group means

- (a) the accounts used to prepare the consolidated financial statements of the ultimate parent entity;
- (b) the financial accounts of the constituent entities of the MNE group prepared in accordance with an acceptable financial accounting standard or authorized financial accounting standard, if the information contained in those statements is maintained based on that accounting standard and is reliable; or
- (c) if a constituent entity of the MNE group is not included in the consolidated financial statements of the MNE group on a line-by-line basis solely due to size or materiality grounds, the financial accounts of the constituent entity that are used for preparation of the MNE group's country-by-country report. (*états financiers admissibles*)

qualified person means

- (a) in respect of an ultimate parent entity that is a flow-through entity, a holder described in any of paragraphs 20(1)(a) to (c); and
- (b) in respect of an ultimate parent entity that is subject to deductible dividend regime, a dividend recipient described in any of paragraphs 21(1)(a) to (c). (*personne admissible*)

qualifying income tax expense means the income tax expense as reported on an MNE group's qualified financial statements, adjusted to exclude

- (a) any amount that does not relate to covered taxes; and
- (b) any amount that relates to uncertain tax positions. (*charges d'impôts admissibles*)

qualified substance-based income exclusion amount, of an MNE group for a jurisdiction for a fiscal year, means the substance-based income exclusion amount of the MNE group for the jurisdiction for the fiscal year determined without regard to the eligible payroll costs and eligible tangible asset amount of any standard constituent entity of the MNE group located in the jurisdiction that, for the purposes of the group's qualified country-by-country report

- (a) is not regarded as a constituent entity of the MNE group; or
- (b) is not regarded as located in the jurisdiction. (*montant de l'exclusion de bénéfices fondée sur la substance admissible*)

total revenues, of an MNE group in a jurisdiction for a fiscal year, means total revenues in the jurisdiction as reported on the MNE group's qualified country-by-country report, that is attributable to standard constituent entities, adjusted to include the revenues of constituent entities of the MNE group that are held for sale and are not already included. (*recettes totales*)

Election — transitional CbCR safe harbour

(2) If the filing constituent entity of an MNE group elects the transitional safe harbour for a jurisdiction for a particular fiscal year, the top-up amount of each standard constituent entity of the MNE group located in the jurisdiction for the particular fiscal year is deemed to be nil, if

- (a) the particular fiscal year begins before January 1, 2027 and ends before July 1, 2028;
- (b) a qualified country-by-country report in respect of the MNE group has been prepared in relation to the jurisdiction for the particular fiscal year;
- (c) the election has been made in respect of the jurisdiction for each preceding fiscal year in which
 - (i) the MNE group is a qualifying MNE group, and
 - (ii) one or more constituent entities of the MNE group, or a joint venture entity in respect of the MNE group, is located in the jurisdiction;
- (d) an election under subsection 37(1) has not been made by the MNE group in respect of the jurisdiction for the particular fiscal year; and
- (e) at least one of the following tests is met, in respect of the MNE group, for the jurisdiction in the particular fiscal year:
 - (i) the *de minimis* threshold test,
 - (ii) the simplified effective tax rate test, or
 - (iii) the routine profits test.

De minimis threshold test

(3) The *de minimis* threshold test is met, in respect of an MNE group, for a jurisdiction in a fiscal year if

- (a) the total revenues of the MNE group in the jurisdiction for the year is less than €10,000,000; and
- (b) the profit (loss) before income tax of the MNE group in the jurisdiction for the year is less than €1,000,000.

Simplified effective tax rate test

(4) The simplified effective tax rate test is met, in respect of an MNE group for a jurisdiction in a fiscal year, if the simplified effective tax rate of the standard constituent entities of the MNE group located in that jurisdiction is

- (a) in the case of a fiscal year beginning before January 1, 2025, at least 15%,
- (b) in the case of a fiscal year beginning in 2025, at least 16%, or
- (c) in the case of a fiscal year beginning after December 31, 2025, at least 17%.

Simplified effective tax rate

(5) The simplified effective tax rate of the standard constituent entities of the MNE group located in a jurisdiction in a fiscal year is the result (expressed as a percentage) of the formula

$$A \div B$$

where

- A** is the total of all amounts each of which is the qualifying income tax expense of a standard constituent entity of the MNE group located in the jurisdiction for the fiscal year; and
- B** is the profit (loss) before income tax of the MNE group in the jurisdiction for the fiscal year.

Routine profits test

(6) The routine profits test is met, in respect of an MNE group for a jurisdiction in a fiscal year if

- (a) the qualified substance-based income exclusion amount for the jurisdiction for the year is equal to or greater than the profit (loss) before income tax of the MNE group in the jurisdiction for the year; or
- (b) the profit (loss) before income tax of the MNE group in the jurisdiction for the year is nil or reflects an overall loss.

Application to joint ventures

(7) For the purposes of applying this section to a joint venture group

- (a) subsection (2) is to be read without reference to its paragraph (b);
- (b) references to “MNE group” are to be read as references to “joint venture group”, other than in the expression “filing constituent entity of an MNE group”, paragraphs (2)(c) and (d), and subsection (8);
- (c) references to “standard constituent entity” are to be read as references to “joint venture entity”, other than in subsection (8);
- (d) references to “MNE group’s qualified country-by-country report” are to be read as references to “joint venture group’s qualified financial statements”;
- (e) in applying the definition *qualified financial statements* in relation to the joint venture group
 - (i) the reference to “ultimate parent entity” in paragraph (a) is to be read as “joint venture parent”, and
 - (ii) the reference to “the financial accounts of the constituent entity that are used for preparation of the MNE group’s country-by-country report” in paragraph (c) should be read as “the financial accounts of the joint venture entity that would be used if a qualified country-by-country report had been prepared in respect of the joint venture group”; and
- (f) the definition *qualified substance-based income exclusion amount* is to be read as “means the substance-based income exclusion amount of the joint venture group for the jurisdiction for the fiscal year”.

Application to minority-owned constituent entities

(8) For the purposes of this section, a minority-owned constituent entity is treated as a standard constituent entity of an MNE group.

Tax-neutral ultimate parent entities

(9) No election may be made under subsection (2) in respect of the jurisdiction where the ultimate parent entity of an MNE group is located for a fiscal year if

- (a) the ultimate parent entity is a flow-through entity; and

(b) it is not the case that all the ownership interests in the ultimate parent entity are held by qualified persons.

Tax-neutral ultimate parent entities — adjustments

(10) If an ultimate parent entity of an MNE group is a flow-through entity or subject to a deductible dividend regime,

(a) the profit (loss) before income tax of the MNE group in the jurisdiction where the ultimate parent entity is located shall be adjusted to exclude any profit (loss) before income tax of the ultimate parent entity to the extent that such amount is

(i) attributable to an ownership interest held by a qualified person, or

(ii) distributed in respect of an ownership interest held by a qualified person; and

(b) the qualifying income tax expense of any constituent entity of the MNE group is adjusted to exclude any taxes in respect of the profit (loss) before income tax that is excluded under paragraph (a).

Investment entities as standard constituent entities

(11) For the purposes of this section, an investment entity or insurance investment entity is treated as a standard constituent entity of an MNE group for a fiscal year, if

(a) the investment entity is included in the MNE group;

(b) all the constituent entities of the MNE group with direct ownership interests in the investment entity or insurance investment entity are located in the same jurisdiction as the investment entity or insurance investment entity; and

(c) no election under subsection 41(1) or 42(1) is in effect in respect of the investment entity or insurance investment entity for the fiscal year.

Investment entities — amounts reflected in owners' jurisdiction

(12) If subsection (11) does not apply in respect of an investment entity or insurance investment entity that is a constituent entity of an MNE group for a fiscal year, for the purposes of applying the tests in subsections (3) to (6), the profit (loss) before income tax and total revenues of the MNE group attributable to, and qualifying income tax expense of, the investment entity or insurance investment entity shall be reflected in the jurisdictions where its direct constituent entity-owners are located, in proportion to their respective ownership interest in the investment entity or insurance investment entity.

Location of investment entities

(13) For the purposes of this section, an investment entity or insurance investment entity is considered to be located in the jurisdiction where it is resident for the purposes of a qualified country-by-country report.

SUBDIVISION C

Simplifications

Non-material constituent entities — simplification

45 An MNE group may apply the simplified income and tax calculations for its non-material constituent entities outlined in the document *Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two)* approved by the Inclusive Framework in December 2022.

DIVISION I

Transition Rules

SUBDIVISION A

Tax Attributes on Transition

Transition — deferred tax assets and liabilities

46 (1) Subject to subsections (2) and (5), in determining the total deferred tax adjustment amount of a constituent entity of an MNE group for the transition year of the constituent entity and each subsequent fiscal year in which the constituent entity is included in the MNE group, each deferred tax asset and deferred tax liability that is reflected in the constituent entity's financial accounts at the beginning of the transition year is to be taken into account to the extent of

(a) if the constituent entity can demonstrate that a deferred tax asset is attributable to a loss of the constituent entity that would have been taken into account in determining its GloBE income or loss had it been determined for the prior fiscal year in which the loss arose, the amount that would be the deferred tax asset recorded in the constituent entity's financial accounts for the year if the rate of tax that applied in determining the deferred tax asset were the minimum rate; and

(b) in any other case, the lesser of

(i) the amount of the deferred tax asset or deferred tax liability, as the case may be, and

(ii) the amount that would be the amount of the deferred tax asset or deferred tax liability recorded in the constituent entity's financial accounts for the year if the rate of tax that applied in determining the deferred tax asset or deferred tax liability were the minimum rate.

Excluded deferred tax assets

(2) In applying subsection (1), a deferred tax asset that is reflected in a constituent entity's financial accounts at the beginning of the transition year shall not be taken into account in determining the constituent entity's total deferred tax adjustment amount if the deferred tax asset arises

(a) as a result of a transaction or event that occurs on or after December 1, 2021 and before the transition year; and

(b) in respect of

(i) an amount that

(A) is included in the constituent entity's income or profits in respect of which an entity is subject to an income or profits tax imposed by the government of the jurisdiction in which the constituent entity is located, and

(B) would not be included in computing the constituent entity's GloBE income or loss for the transition year if the amount arose in the transition year, or

(ii) an amount that

(A) is not included in the constituent entity's income or profits in respect of which an entity is subject to an income or profits tax imposed by the government of the jurisdiction in which the constituent entity is located, and

(B) would be included in computing the constituent entity's GloBE income or loss for the transition year if the amount arose in the transition year.

Valuation adjustments and accounting recognition adjustments

(3) In applying subsection (1), the impact of any valuation adjustment or accounting recognition adjustment with respect to the amount of a deferred tax asset shall not be taken into account.

Asset transfers before transition year — conditions

(4) Subsection (5) applies in respect of an asset if

- (a)** an entity (referred to in this section as the “transferor”) transfers the asset — on or after December 1, 2021, and before the transition year of the transferor — to another entity (referred to in this section as the “transferee”);
- (b)** the asset is not manufactured, nor of a class or description sold, in the course of carrying on a trade by the transferor or the transferee; and
- (c)** had this Act applied immediately before the transfer, the transferor and transferee would have been constituent entities of the same MNE group.

Asset transfers before transition year — consequences

(5) Subject to subsection (9), if this subsection applies in respect of an asset

- (a)** the carrying value of the asset at the beginning of the transition year is deemed to be equal to the carrying value of the asset to the transferor immediately before the transfer referred to in paragraph (4)(a), adjusted for
 - (i)** any subsequent capitalized expenditure incurred in respect of the asset before the transition year, and
 - (ii)** the portion of any amortization and depreciation of the asset that would have been recognized before the transition year if any increase in the carrying value resulting from the transfer had not occurred; and
- (b)** in applying subsection (1),
 - (i)** any deferred tax assets and deferred tax liabilities in respect of the asset that are reflected in any entity’s financial accounts and that result from the transfer shall not be taken into account in determining the total deferred tax adjustment amount of any constituent entity, except to the extent provided under subparagraph (ii), and
 - (ii)** a deferred tax asset of the transferee that is described in subparagraph (i) may be taken into account but, for this purpose, the amount of that deferred tax asset is deemed to be equal to the lesser of the amount actually recorded in the transferee’s financial accounts as a result of the transfer and the total of the following amounts, adjusted for any capitalized expenditure, amortization and depreciation in respect of the asset that are referred to in subparagraphs (a)(i) and (ii):
 - (A)** the portion of the current tax expense for a fiscal year of the transferor in respect of covered taxes that is demonstrated to have resulted from the transfer, and
 - (B)** the portion of the current tax expense for a fiscal year of any other entity in respect of covered taxes that is demonstrated to have resulted from the transfer and that would have been allocated to the transferor under section 24 if
 - (I)** the transfer had occurred in the transition year of the transferor, and
 - (II)** section 24 were read without reference to paragraph 24(4)(c).

Deemed transfer

(6) For the purposes of subsection (4), an asset is deemed to be transferred by a transferor to a transferee on or after December 1, 2021, and before the transition year of the transferor, if a transaction or arrangement is entered into during that period in respect of the asset that

(a) would not, in the absence of this subsection, be regarded as a transfer of the asset by a transferor to a transferee on or after December 1, 2021, and before the transition year of the transferor; and

(b) is accounted for by one or more parties involved in the transaction or arrangement in the same or a similar manner to a change in ownership of the asset, or as giving rise to an asset.

Interpretation — single-entity transactions

(7) For greater certainty, the transaction or arrangement referred to in subsection (6) may involve only one entity — including where it results in an increase to the carrying value of an asset, or in the creation or increase of a deferred tax asset — in which case the transferor and transferee referenced in subsection (5) are the same entity.

Interpretation — pre-existing deferred tax assets and liabilities

(8) For greater certainty, for the purposes of subparagraph (5)(b)(i), any deferred tax assets or deferred tax liabilities in respect of an asset reflected in the transferee’s financial accounts immediately after the transfer and that were reflected in the transferor’s financial accounts immediately before the transfer are not deferred tax assets or deferred tax liabilities resulting from the transfer.

Election — disapplication of paragraph (5)(a) and subparagraph (5)(b)(ii)

(9) Paragraph (5)(a) and subparagraph (5)(b)(ii) do not apply in respect of an asset transferred by a transferor to a transferee that is a constituent entity of an MNE group, if

(a) the filing constituent entity of the MNE group elects; and

(b) the following condition is met:

$$A \times B \geq C \times D$$

where

A is the sum of the amounts described in clauses (5)(b)(ii)(A) and (B) in respect of the transfer of the asset,

B is the amount of any deferred tax asset in respect of a tax loss of the transferor that is demonstrated to have been reversed or not created solely because any gain arising from the transfer of the asset was included in the taxable income of the transferor,

C is the minimum rate, and

D is the difference between local tax basis in the asset to the transferee immediately after the transfer and the carrying value of the asset at the beginning of the transition year as would be determined under paragraph (5)(a) in the absence of this subsection.

SUBDIVISION B

Transitional Rates for the Substance-based Income Exclusion

Transitional rates for the substance-based income exclusion

47 (1) For the purposes of applying subsection 32(2) in respect of a fiscal year beginning in calendar year 2032 or any previous calendar year, the reference in that provision to “5% of the eligible payroll costs” shall be read as

(a) “10% of the eligible payroll costs” if the fiscal year begins in 2023;

(b) “9.8% of the eligible payroll costs” if the fiscal year begins in 2024;

(c) “9.6% of the eligible payroll costs” if the fiscal year begins in 2025;

(d) “9.4% of the eligible payroll costs” if the fiscal year begins in 2026;

(e) “9.2% of the eligible payroll costs” if the fiscal year begins in 2027;

- (f) “9% of the eligible payroll costs” if the fiscal year begins in 2028;
- (g) “8.2% of the eligible payroll costs” if the fiscal year begins in 2029;
- (h) “7.4% of the eligible payroll costs” if the fiscal year begins in 2030;
- (i) “6.6% of the eligible payroll costs” if the fiscal year begins in 2031; and
- (j) “5.8% of the eligible payroll costs” if the fiscal year begins in 2032.

(2) For the purposes of applying subsection 32(2) in respect of a fiscal year beginning in calendar year 2032 or any previous calendar year, the reference in that provision to “5% of the eligible tangible asset amount” shall be read as

- (a) “8% of the eligible tangible asset amount” if the fiscal year begins in 2023;
- (b) “7.8% of the eligible tangible asset amount” if the fiscal year begins in 2024;
- (c) “7.6% of the eligible tangible asset amount” if the fiscal year begins in 2025;
- (d) “7.4% of the eligible tangible asset amount” if the fiscal year begins in 2026;
- (e) “7.2% of the eligible tangible asset amount” if the fiscal year begins in 2027;
- (f) “7% of the eligible tangible asset amount” if the fiscal year begins in 2028;
- (g) “6.6% of the eligible tangible asset amount” if the fiscal year begins in 2029;
- (h) “6.2% of the eligible tangible asset amount” if the fiscal year begins in 2030;
- (i) “5.8% of the eligible tangible asset amount” if the fiscal year begins in 2031; and
- (j) “5.4% of the eligible tangible asset amount” if the fiscal year begins in 2032.

PART III

UTPR

PART IV

Domestic Minimum Top-up Tax

Interpretation

48 This Part comprises provisions that

- (a) are intended to implement a qualified domestic minimum top-up tax that has qualified domestic minimum top-up tax safe harbour status; and
- (b) are to be interpreted consistently with the requirements outlined in the GloBE commentary.

Domestic minimum top-up tax

49 (1) A particular person must pay a tax in respect of a constituent entity of an MNE group for a fiscal year in an amount equal to the domestic top-up amount of the constituent entity for the fiscal year, if

- (a) the constituent entity is located in Canada for the fiscal year;

(b) the MNE group is a qualifying MNE group for the fiscal year; and

(c) the particular person

(i) is the constituent entity; or

(ii) if the constituent entity is not a person, would, under the relevant assumptions, include in its income for the purposes of Part I of the *Income Tax Act* income of the constituent entity for the fiscal year.

Relevant assumptions

(2) For the purposes of subparagraph (1)(c)(ii) the relevant assumptions are that

(a) the constituent entity referred to in that subparagraph has income for the fiscal year that would be included in computing its income for the purposes of Part I of the *Income Tax Act* if it were a person resident in Canada; and

(b) the person referred to in the preamble to paragraph (1)(c) is resident in Canada for the purposes of the *Income Tax Act*.

Domestic top-up amount

50 (1) Subject to subsection 51(3), the **domestic top-up amount**, of a constituent entity of an MNE group located in Canada for a fiscal year, means the amount that would be the top-up amount of the constituent entity for the fiscal year determined under subsection 30(1), 34(2), 35(1) or 36(2) (as adjusted or altered under any other applicable provision of Part II), as the case may be, if that amount (and any amounts or results relevant to the determination of that amount) were required to be determined and

(a) the adjusted covered taxes of the constituent entities of the MNE group located in Canada were determined without reference to any covered taxes that would otherwise be allocable to those constituent entities under

(i) subsection 24(1),

(ii) subsection 24(4),

(iii) subsection 24(5), or

(iv) subsection 24(6), except any amount of those covered taxes imposed under the *Income Tax Act*;

(b) the total amount of tax payable for any fiscal year in respect of the constituent entities of the MNE group located in Canada, under a qualified domestic minimum top-up tax, were deemed to be nil; and

(c) any election made or revoked under Part II of this Act or the equivalent law of another jurisdiction were taken into account, if the election is included in a GIR that has been received by the Minister in respect of the MNE group and would affect the calculation of top-up amounts (or any amounts or results relevant to the determination of top-up amounts) for the fiscal year.

Application — joint ventures

(2) For the purposes of this section and section 49, any reference to a constituent entity of an MNE group includes an entity that is a joint venture parent in respect of the MNE group or a joint venture subsidiary of a joint venture parent in respect of the MNE group.

Initial phase of international activity — definitions

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

initial phase of international activity year, of an MNE group, means a fiscal year

(a) throughout which there are constituent entities of the MNE group located in no more than six different jurisdictions; and

(b) for which the total of all amounts each of which is the net book value, for the fiscal year, of a tangible asset held by a constituent entity of the MNE group located in a jurisdiction other than the reference jurisdiction, does not exceed €50 million. (*année de la phase de démarrage des activités internationales*)

net book value, for a fiscal year, of a tangible asset, means the average of the beginning and end values in respect of the fiscal year of the tangible asset after taking into account accumulated depreciation, depletion and impairment, as recorded in the financial statements. (*valeur nette comptable*)

reference jurisdiction, of an MNE Group, means the jurisdiction

(a) in which one or more constituent entities of the MNE group are located in the first fiscal year that the MNE group is a qualifying MNE group; and

(b) for which the sum of the net book values, for that fiscal year, of tangible assets held by the one or more constituent entities located in the jurisdiction is greater than the sum of the net book values, for that fiscal year, of tangible assets held by constituent entities of the MNE group located in any other single jurisdiction. (*jurisdiction de référence*)

Tangible assets — permanent establishments

(2) For the purposes of the definitions of *initial phase of international activity year* and *reference jurisdiction* in subsection (1),

(a) the tangible assets held by a constituent entity that is a permanent establishment are only those that are reflected in the separate financial accounts of the permanent establishment as adjusted in accordance with clause 17(1)(b)(ii)(B) or subsection 17(2) (referred to in this subsection as “permanent establishment assets”); and

(b) the tangible assets held by a constituent entity that is a main entity in respect of one or more permanent establishments shall not include any permanent establishment assets of those permanent establishments.

Initial phase of international activity — exclusion

(3) The domestic top-up amount of a particular constituent entity of an MNE group located in Canada for a fiscal year is deemed to be nil, if

(a) there is no relevant parent entity that is located in a jurisdiction (other than Canada) where it is subject to a qualified IIR and that holds an ownership interest in any constituent entity of the MNE group located in Canada;

(b) the fiscal year

(i) begins on or before the day that is five years after the first day of the first fiscal year in which the MNE group is a qualifying MNE group, and

(ii) is an initial phase of international activity year; and

(c) all fiscal years preceding the fiscal year are initial phase of international activity years.

PART V

Anti-Avoidance

General anti-avoidance rule

52 Section 245 of the *Income Tax Act* applies, with such modifications as the circumstances require, in respect of the determination of any amount under this Act.

PART VI

General Provisions, Administration and Enforcement

Definitions

53 (1) The following definitions apply in this Part.

Agency means the Canada Revenue Agency continued by subsection 4(1) of the *Canada Revenue Agency Act*. (*Agence*)

assessment means an assessment or a reassessment under this Act. (*cotisation*)

bank means a *bank* as defined in section 2 of the *Bank Act* or an *authorized foreign bank*, as defined in that section, that is not subject to the restrictions and requirements referred to in subsection 524(2) of that Act. (*banque*)

bankrupt has the same meaning as in section 2 of the *Bankruptcy and Insolvency Act*. (*failli*)

Canadian filing entity has the meaning assigned in subsection 60(3). (*entité déclarante Canadienne*)

Commissioner means, except in sections 56, 118 and 135, the Commissioner of Revenue appointed under section 25 of the *Canada Revenue Agency Act*. (*commissaire*)

designated filing entity, in respect of an MNE group for a fiscal year, means a constituent entity of the MNE group that has been appointed by the MNE group, in substitution for the ultimate parent entity, to file a GIR on behalf of the MNE group for the fiscal year, provided it has been given everything it may reasonably require to comply with the filing obligations under this section. (*entité déclarante désignée*)

designated local entity has the meaning assigned in paragraph 59(2)(a). (*entité locale désignée*)

judge, in respect of any matter, means a judge of a superior court having jurisdiction in the province in which the matter arises or a judge of the Federal Court. (*jugé*)

official means a person who is employed in the service of, who occupies a position of responsibility in the service of, or who is engaged by or on behalf of, His Majesty in right of Canada or a province, or a person who was formerly so employed, who formerly occupied such a position or who formerly was so engaged. (*fonctionnaire*)

person includes an entity. (*personne*)

qualifying competent authority agreement means an agreement that

(a) is between authorized representatives of those jurisdictions that are parties to a listed international agreement; and

(b) requires the automatic exchange of GIRs between the party jurisdictions. (*accord admissible entre autorités compétentes*)

qualifying foreign filing entity, in respect of a qualifying MNE group for a fiscal year, means a constituent entity of the MNE group, if

(a) the constituent entity is the ultimate parent entity or designated filing entity of the MNE group for the fiscal year;

(b) the constituent entity is located in a jurisdiction (referred to in this definition as the “filing jurisdiction”) other than Canada in the fiscal year;

(c) the constituent entity is obligated to file a GIR, in respect of the MNE group for the fiscal year, with the tax authority of the filing jurisdiction; and

(d) the filing jurisdiction has a qualifying competent authority agreement in effect to which Canada is a party on or before the GIR due-date for the fiscal year. (*entité déclarante étrangère admissible*)

record means any material on which representations, in any form, of information or concepts are recorded or marked and that is capable of being read or understood by an individual or a computer system or other device. (*registre*)

Person resident in Canada

(2) For the purposes of this Part, a person is deemed to be resident in Canada at any time

(a) in the case of a corporation, if the corporation is

(i) incorporated in Canada and not continued elsewhere, or

(ii) continued in Canada;

(b) in the case of a partnership, an unincorporated society, a club, an association or organization, or a branch thereof, if the member or participant, or a majority of the members or participants, having management and control thereof is or are resident in Canada at that time;

(c) in the case of a labour union, if it is carrying on activities as such in Canada and has a local union or branch in Canada at that time; or

(d) in the case of an individual, if the individual is deemed under any of paragraphs 250(1)(a) to (f) of the *Income Tax Act* to be resident in Canada at that time.

Arm's length

(3) For the purposes of this Part,

(a) related persons are deemed not to deal with each other at arm's length; and

(b) it is a question of fact whether persons not related to each other are, at any time, dealing with each other at arm's length.

Related persons

(4) For the purposes of this Part, persons are related to each other if they are related persons within the meaning of subsection 6(2) of the *Excise Act, 2001*.

Administration or enforcement

(5) For greater certainty, a reference in this Part to the administration or enforcement of this Act includes the collection of any amount payable under this Act.

Partnerships

(6) For the purposes of this Part, anything done by a person as a member of a partnership is deemed to have been done by the partnership in the course of the partnership's activities and not to have been done by the person.

DIVISION A

Duties of Minister

Minister's duty

54 The Minister must administer and enforce this Act and the Commissioner may exercise the powers and perform the duties of the Minister under this Act.

Staff

55 (1) The persons that are necessary to administer and enforce this Act are to be appointed, employed or engaged in the manner authorized by law.

Delegation of powers

(2) The Minister may authorize any person employed or engaged by the Agency, or who occupies a position of responsibility in the Agency, to exercise powers or perform duties of the Minister, including any judicial or quasi-judicial power or duty of the Minister, under this Act.

Administration of oaths

56 Any person, if so designated by the Minister, may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of, or incidental to, the administration or enforcement of this Act, and every person so designated has for those purposes all the powers of a commissioner for administering oaths or taking affidavits.

Waiving the filing of documents

57 Where any provision of this Act or a regulation requires a person to file a form or other document (other than a return or an election) or to provide information, prescribed by the Minister, the Minister may waive the requirement, but at the Minister's request the person must provide the document or information by the date set out in the request.

Security

58 The Minister may require a constituent entity to give and maintain security, in an amount determined by the Minister and subject to any terms and conditions that the Minister may specify, for the payment of any amount that is or may become payable by the constituent entity under this Act.

DIVISION B

Returns

GIR filing obligation

59 (1) A GIR, in respect of a qualifying MNE group for a fiscal year, must be filed in prescribed manner with the Minister on or before the GIR due-date in respect of the MNE group for the fiscal year by

- (a)** the ultimate parent entity of the MNE group, if
 - (i)** the ultimate parent entity is located in Canada in the fiscal year, and
 - (ii)** there is no designated filing entity for the MNE group for the fiscal year located in Canada in the fiscal year;
- (b)** the designated filing entity of the MNE group for the fiscal year, if it is located in Canada in the fiscal year; or
- (c)** subject to subparagraph (2)(b)(ii), each constituent entity of the MNE group that is located in Canada in the fiscal year, if
 - (i)** neither paragraph (a) nor (b) applies,
 - (ii)** one of the following conditions is met:
 - (A)** there is no qualifying foreign filing entity in respect of the MNE group for the fiscal year,
 - (B)** the qualifying foreign filing entity does not file a GIR for the fiscal year with the tax authority of the jurisdiction where it is located on or before the GIR due-date in respect of the MNE group for the fiscal year,
 - (C)** the tax authority of the jurisdiction where the qualifying foreign filing entity is located has not provided the GIR for the fiscal year to the Minister by the GIR due-date for the fiscal year, and the Minister notifies the

constituent entities of the MNE group located in Canada that the Minister has not received the GIR and requires it to be filed by the constituent entities or a designated local entity, and

(iii) neither the ultimate parent entity nor the designated filing entity of the MNE group located in a jurisdiction other than Canada files the GIR for the fiscal year, in prescribed form and manner with Minister, on or before the GIR due-date in respect of the MNE group.

GIR — appointment of a designated local entity

(2) If more than one constituent entity of a qualifying MNE group is required to file a GIR with the Minister for a fiscal year under paragraph (1)(c),

(a) one of those constituent entities located in Canada may be appointed as a designated local entity, in the GIR filed with the Minister on or before the GIR due-date for the fiscal year, to file the GIR, in respect of the MNE group for the year, with the Minister on behalf of all of those constituent entities; and

(b) where the MNE group appoints a designated local entity to file the GIR for the fiscal year

(i) the designated local entity must file the GIR, in respect of the MNE group for the year, with the Minister on or before the GIR due-date for the fiscal year, and

(ii) if the designated local entity files the GIR on or before the GIR due-date for the fiscal year, the GIR is deemed to have been filed at that time by each of the other constituent entities of the MNE group located in Canada.

GIR notification requirement

(3) If there is a qualifying foreign filing entity in respect of a qualifying MNE group for a fiscal year that is filing the GIR in respect of the MNE group for the fiscal year with the tax authority of the jurisdiction where it is located, a constituent entity of the MNE group located in Canada must notify the Minister in prescribed form and manner, on or before the GIR due-date for the fiscal year, of

(a) the identity of the qualifying foreign filing entity; and

(b) the jurisdiction in which the qualifying foreign filing entity is located.

GIR required contents

(4) A GIR, in respect of a qualifying MNE group for a fiscal year, must contain the following:

(a) identification of the constituent entities of the MNE group for the fiscal year, the jurisdiction in which they are located and their status under the GloBE model rules;

(b) information on the overall corporate structure of the MNE group in the fiscal year;

(c) information relevant to the determination of effective tax rates, top-up tax and allocation of top-up tax for the fiscal year;

(d) elections made or revoked for the fiscal year;

(e) the appointment of any designated filing entity or designated local entity for the fiscal year; and

(f) any other information specified in the GIR.

Part II return

60 (1) A person that is liable to pay tax under Part II for a fiscal year must file in prescribed manner with the Minister, not later than the GIR due-date, a return for the fiscal year in prescribed form containing an estimate of the tax payable under Part II by it for the year.

Part IV return

(2) A person that is liable to pay tax under Part IV for a fiscal year must file in prescribed manner with the Minister, not later than the GIR due-date, a return for the fiscal year in prescribed form containing an estimate of the tax payable under Part IV by it for the year.

Canadian filing entity

(3) If more than one person, in respect of an MNE group, is required to file a return under subsection (2) for a fiscal year, one of those persons that is resident in Canada may be appointed by designation as the Canadian filing entity in the return, with the consent of the person, to file a return under that subsection with the Minister on behalf of all persons, in respect of the MNE group, that would, in the absence of subsection (4), be required to file the return for the fiscal year.

Consequences — Canadian filing entity

(4) If an MNE group appoints a Canadian filing entity under subsection (3) to file a return for the fiscal year,

(a) the Canadian filing entity must file a return, in respect of all persons that are required to file returns under subsection (2) in respect of the MNE group for the fiscal year, with the Minister on or before the GIR due-date for the fiscal year; and

(b) if the Canadian filing entity files the return on or before the GIR due-date for the fiscal year, the return is deemed to have been filed at that time by each of those other persons.

Consequences — appointment

(5) If a designated filing entity located in Canada, a designated local entity or a Canadian filing entity (each referred to in this subsection as an “appointed entity”) is appointed to act on behalf of one or more persons, in respect of an MNE group, for a fiscal year,

(a) the appointed entity must act on behalf of those persons for the purposes of this Part in respect of the fiscal year;

(b) any action taken by the appointed entity on behalf of those persons for the purposes of this Part in respect of the fiscal year is deemed to have been performed by those persons; and

(c) the Minister must direct to the appointed entity and those persons any communication for the purposes of this Part as it applies to those persons in respect of the fiscal year.

Demand for return

61 The Minister may, on demand sent by the Minister, require a person to file, within any reasonable time that may be stipulated in the demand, a return under this Act for any fiscal year that is designated in the demand.

Trustees, etc

62 Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a person who has not filed a return for a particular calendar year as required by this Division must file the return.

DIVISION C

Payments

Payments

63 The tax payable under this Act by a person in respect of a fiscal year must be paid on or before the GIR due-date for the fiscal year.

Manner and form of payments

64 Every person who is required under this Act to pay tax or any other amount must make the payment to the account of the Receiver General of Canada in the manner and form prescribed by the Minister.

Part II — assessment of another constituent entity

65 (1) The Minister may assess a particular constituent entity of an MNE group located in Canada in respect of tax and other amounts payable under Part II or this Part by another constituent entity of the MNE group located in Canada. If such an assessment is made, the particular constituent entity is jointly and severally, or solidarily, liable with the other constituent entity to pay the amount assessed and this Part applies to the particular constituent entity in respect of the amount assessed with any modifications that the circumstances require.

Limitation

(2) Subsection (1) does not limit the liability of the other constituent entity under any other provision of this Act or of the particular constituent entity for the interest that the particular constituent entity is liable to pay under this Act on an assessment in respect of the amount that the particular constituent entity is liable to pay because of that subsection.

Part IV — joint and several or solidary liability

(3) A particular constituent entity, located in Canada, of an MNE group, is, in respect of tax and other amounts payable under Part IV or this Part by another constituent entity of the MNE group or a joint venture parent, or a joint venture subsidiary of that joint venture parent, in respect of the MNE group, jointly and severally, or solidarily, liable with the other constituent entity or joint venture entity, as the case may be, to pay those amounts and this Part applies to the particular constituent entity in respect of those amounts with any modifications that the circumstances require.

Part IV — joint and several or solidary liability of joint venture entities

(4) A particular joint venture entity of a joint venture subgroup located in Canada is, in respect of tax and other amounts payable under Part IV or this Part by another joint venture entity of the joint venture subgroup, jointly and severally, or solidarily, liable with the other joint venture entity to pay those amounts and this Part applies to the particular joint venture entity in respect of those amounts with any modifications that the circumstances require.

Partnerships — joint and several or solidary liability

(5) A partnership and each member or former member (each of which is referred to in this subsection as the “member”) of the partnership (other than a member that is a limited partner and is not a general partner) are jointly and severally, or solidarily, liable for

(a) the payment of all amounts that are required to be paid by the partnership under this Act before or during the period during which the member is a member of the partnership or, if the member was a member of the partnership at the time the partnership was dissolved, after the dissolution of the partnership, except that

(i) the member is liable for the payment of amounts that become payable before the period only to the extent of the property that is regarded as property of the partnership under the relevant laws of general application to partnerships in force in a province or other jurisdiction, and

(ii) the payment by the partnership or by any member of the partnership of an amount in respect of the liability discharges their liability to the extent of that amount; and

(b) all other obligations under this Act that arose before or during that period for which the partnership is liable or, if the member was a member of the partnership at the time the partnership was dissolved, the obligations that arose upon or as a consequence of the dissolution.

Partnerships — tiers

(6) For the purposes of this section, a partnership or other person that is (or is deemed by this subsection 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.

Trusts — joint and several or solidary liability

(7) A trust and all persons who are trustees of that trust at any time during a fiscal year are jointly and severally, or solidarily, liable for the payment of all amounts that are required to be paid by the trust under this Act for the fiscal year.

Persons liable in respect of other entities

(8) All persons that are, in respect of a constituent entity, liable to pay an amount under this Act for a fiscal year, and the constituent entity, are jointly and severally, or solidarily, liable for the payment of all amounts that are required to be paid by any of those persons or the constituent entity under this Act for the fiscal year.

Discharge of liability

(9) If a constituent entity or person (referred to in this subsection as the “first party”) and another constituent entity or person (referred to in this subsection as the “second party”) are jointly and severally, or solidarily, liable in respect of part or all of the liability of the second party under this Act, the following rules apply:

(a) a payment by the first party on account of the first party’s liability must, to the extent of the payment, discharge the joint liability; and

(b) a payment by the second party on account of the second party’s liability only discharges the first party’s liability to the extent that the payment operates to reduce that liability to an amount less than the amount for which the first party was jointly and severally, or solidarily, liable.

Meaning of transaction

66 (1) In this section and section 101, a **transaction** includes an arrangement or event.

Tax liability — property transferred not at arm’s length

(2) If at any time a person transfers property, either directly or indirectly, by means of a trust or by any other means, to another person with which the transferor was not, at that time, dealing at arm’s length, the transferee and transferor are jointly and severally, or solidarily, liable to pay under this Act an amount equal to the lesser of

(a) the amount determined by the formula

$$A - (B - C)$$

where

A is the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given by the transferee for the transfer of the property,

B is the total of all amounts, if any, the transferee was assessed under paragraph 97.44(1)(b) of the *Customs Act*, subsection 325(2) of the *Excise Tax Act*, subsection 160(2) of the *Income Tax Act*, subsection 297(3) of the *Excise Act, 2001*, subsection 161(1) of the *Greenhouse Gas Pollution Pricing Act*, subsection 80(3) of the *Underused Housing Tax Act* or subsection 150(4) of the *Select Luxury Items Tax Act* in respect of the property, and

C is the amount paid by the transferor in respect of the amount of the total described in variable B; and

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

(i) an amount that the transferor is liable to pay under this Act in respect of

(A) the fiscal year that includes that time, or

(B) any preceding fiscal year, or

(ii) interest or penalties (other than amounts included in subparagraph (i)) for which the transferor is liable at that time.

Limitation

(3) Subsection (2) does not limit the liability of the transferor under any other provision of this Act or of the transferee for the interest that the transferee is liable to pay under this Act on an assessment in respect of the amount that the transferee is liable to pay because of that subsection.

Fair market value of undivided interest or right

(4) For the purposes of this section, the fair market value at any time of an undivided interest in, or for civil law an undivided right in, a property that is expressed as a proportionate interest or right in that property is deemed to be equal to the same proportion of the fair market value of that property at that time.

Assessment

(5) Despite subsection 84(1), the Minister may at any time assess a transferee in respect of any amount payable because of this section and this Part applies with any modifications that the circumstances require.

Rules applicable

(6) If a transferor and transferee have, because of subsection (2), become jointly and severally, or solidarily, liable in respect of part or all of the liability of the transferor under this Act, the following rules apply:

(a) a payment by the transferee on account of the transferee's liability must, to the extent of the payment, discharge the joint liability; and

(b) a payment by the transferor on account of the transferor's liability only discharges the transferee's liability to the extent that the payment operates to reduce the transferor's liability to an amount less than the amount in respect of which the transferee was, because of subsection (2), made jointly and severally, or solidarily, liable.

Anti-avoidance rules

(7) For the purposes of subsections (1) to (6), 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, the following rules apply:

(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) the transferor and the transferee do not deal at arm's length 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, 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 the transferor under this section 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 (5) in respect of that amount) is deemed to have become payable in the fiscal year in which the property was transferred, if it is reasonable to conclude that one of the purposes of the transfer of the property is to avoid the payment of a future amount payable under this Act by the transferor or transferee; and

(c) the amount determined for A in paragraph (2)(a) is deemed to be the greater of

(i) the amount otherwise determined for A in paragraph (2)(a) 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 referred to in clause (A),

(I) the amount that is the lowest of the amount determined in clause (A) and the fair market value during the period of any property, other than property that is cancelled or extinguished during the period, that is substituted for the consideration referred to in clause (A), or

(II) if there is no property that is substituted for the consideration referred to in clause (A), other than property cancelled or extinguished during the period, nil.

Payment in Canadian dollars

67 (1) Every person that is required under this Act to pay an amount to the Receiver General of Canada must pay the amount in Canadian dollars.

Tax payable

(2) If an amount payable by a person for a fiscal year under this Act would, in the absence of this subsection, be denominated in a currency other than the Canadian dollar, that amount is to be converted to Canadian dollars using the average for the fiscal year of the daily rates of exchange quoted by the Bank of Canada, or if there is no daily rate quoted by the Bank of Canada for a particular day, a daily rate of exchange acceptable to the Minister, in respect of the two currencies.

Exception

(3) The Minister may, at any time, waive the requirement under subsection (1) and accept a currency other than Canadian dollars. If such a waiver is granted, the amount is to be converted from Canadian dollars to that currency using a rate of exchange that is acceptable to the Minister.

Meaning of electronic payment

68 (1) In this section, *electronic payment* means any payment to the Receiver General of Canada that is made through electronic services offered by a person described in any of paragraphs (2)(a) to (d) or by any electronic means specified by the Minister.

Electronic payment

(2) Every person that is required under this Act to pay an amount to the Receiver General of Canada must, if the amount is \$10,000 or more, make the payment by way of electronic payment, unless the person cannot reasonably pay the amount in that manner, to the account of the Receiver General of Canada at or through

(a) a bank;

(b) a credit union;

(c) a corporation authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public; or

(d) a corporation that is authorized under the laws of Canada or a province to accept deposits from the public and that carries on the business of lending money on the security of real property or immovables or investing in indebtedness on the security of mortgages on real property or hypothecs on immovables.

Small amounts owing by a person

69 (1) If, at any time, the total of all unpaid amounts owing by a person to the Receiver General of Canada under this Act does not exceed \$2.00, the amount owing by the person is deemed to be nil.

Small amounts payable to a person

(2) If, at any time, the total of all amounts payable by the Minister to a person under this Act does not exceed \$2.00, the Minister may apply those amounts against any amount owing, at that time, by the person to His Majesty in right of Canada. However, if the person, at that time, does not owe any amount to His Majesty in right of Canada, those amounts payable are deemed to be nil.

DIVISION D

Interest

Compound interest

70 (1) If a person fails to pay an amount to the Receiver General of Canada as and when required under this Act, the person must pay to the Receiver General of Canada interest on the amount. The interest must be compounded daily at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, and computed for the period beginning on the first day after the day on or before which the amount was required to be paid and ending on the day on which the amount is paid.

Payment of interest that is compounded

(2) For the purposes of subsection (1), interest that is compounded on a particular day on an unpaid amount of a person is deemed to be required to be paid by the person to the Receiver General of Canada at the end of the particular day, and, if the person has not paid the interest so computed by the end of the day after the particular day, the interest must be added to the unpaid amount at the end of the particular day.

Period when interest not payable

(3) If the Minister has served a demand that a person pay on or before a specified date all amounts payable by the person under this Act on the date of the demand, and the person pays the amount demanded on or before the specified date, the Minister must waive any interest that would otherwise apply in respect of the amount demanded for the period beginning on the first day following the date of the demand and ending on the day of payment.

Interest and penalty amounts of \$25 or less

(4) If, at any time, a person pays an amount not less than the total of all amounts, other than interest and penalty, owing at that time to His Majesty in right of Canada under this Act in respect of a fiscal year and the total amount of interest and penalty payable by the person under this Act in respect of the fiscal year is not more than \$25, the Minister may cancel the interest and penalty.

Waiving or cancelling interest

71 (1) The Minister may, on or before the day that is 10 calendar years after the end of a particular fiscal year, or on application by a person on or before that day, waive, cancel or reduce any amount otherwise payable under this Act that is interest payable by the person on an amount that is required to be paid by the person in respect of the particular fiscal year, and despite subsection 84(1), any assessment of the interest payable by the person may be made that is necessary to take into account the waiver, cancellation or reduction of the interest.

Interest where amounts waived or cancelled

(2) If a person has paid an amount of interest and the Minister waives, cancels or reduces any portion of that amount under subsection (1), the Minister must refund the portion of the amount and pay interest at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, on the portion of the amount beginning on the day that is 30 days after the day on which the Minister received a request in a manner satisfactory to the Minister to apply that subsection (or, if there is no such request, on the day the Minister waives, cancels or reduces the portion of the amount) and ending on the day on which the portion of the amount is paid as a refund or applied against another amount owed by the person to His Majesty in right of Canada.

DIVISION E

Administrative Charge under the Financial Administration Act

Dishonoured instruments

72 For the purposes of this Act and section 155.1 of the *Financial Administration Act*, any charge that is payable at any time by a person under the *Financial Administration Act* in respect of an instrument tendered in payment or settlement of an amount that is payable under this Act is deemed to be an amount that is payable by the person at that time under this Act. In addition, Part II of the *Interest and Administrative Charges Regulations* does not apply to the charge and any debt under subsection 155.1(3) of the *Financial Administration Act* in respect of the charge is deemed to be extinguished at the time the total of the amount and any applicable interest under this Act is paid.

DIVISION F

Refunds

Statutory recovery rights

73 Except as specifically provided under this Act or the *Financial Administration Act*, no person has a right to recover any money paid to His Majesty in right of Canada as or on account of, or that has been taken into account by His Majesty in right of Canada as, an amount payable under this Act.

Refund — payment in error

74 (1) If a person, otherwise than because of an assessment, has paid any moneys in error to His Majesty in right of Canada, whether by reason of mistake of fact or law or otherwise, and the moneys have been taken into account by His Majesty in right of Canada as taxes, penalties, interest or other amounts under this Act, then an amount equal to the amount of the moneys must, subject to this Act, be refunded to the person if the person applies for the refund of the amount within two years after the day on which the moneys were paid.

Form and contents of application

(2) An application under subsection (1) must be made in the form and manner, and containing the information, prescribed by the Minister.

Determination

(3) On receipt of an application under subsection (1), the Minister must, without delay, consider the application and determine the amount of the refund, if any, payable to the applicant.

Minister not bound

(4) In considering an application under subsection (1), the Minister is not bound by any application or information supplied by or on behalf of any person.

Notice and payment

(5) After considering an application under subsection (1), the Minister must

- (a)** send to the applicant a notice of the determination made under subsection (3); and
- (b)** pay to the applicant the amount of the refund, if any, payable to the applicant.

Objections and appeals

(6) For the purposes of Divisions I and J and subsections 81(5), 135(7) and (13), a determination under subsection (3) is deemed to be an assessment.

Interest on payment

(7) If an amount is paid to an applicant under subsection (5), the Minister must pay interest, at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, to the applicant on the amount for the period of time beginning on the day that is 30 days after the day on which the application was received (or deemed received under subsection 81(4)) by the Minister and ending on the day on which the amount is paid.

Determination valid and binding

(8) A determination under subsection (3), subject to being varied or vacated on an objection or appeal under this Act and subject to an assessment, is deemed to be valid and binding despite any irregularity, informality, error, defect or omission in the notice of the determination or in any proceeding under this Act relating to the determination.

Restriction — application to other debts

75 Instead of paying a refund to a person that might otherwise be paid under this Act, the Minister may, where the person is, or is about to become, liable to make any payment to His Majesty in right of Canada or of a province, apply the amount of the refund to that liability and notify the person of that action.

Restriction — unfulfilled filing requirements

76 The Minister must not, in respect of a person, refund, repay, apply to other debts or set off amounts under this Act until the person has filed with the Minister all returns and other records of which the Minister has knowledge that are required to be filed under this Act, the *Income Tax Act*, the *Excise Tax Act*, the *Excise Act 2001*, the *Air Travellers Security Charge Act*, the *Greenhouse Gas Pollution Pricing Act*, the *Underused Housing Tax Act* and the *Select Luxury Items Tax Act*.

Restriction — trustees

77 If a trustee is appointed under the *Bankruptcy and Insolvency Act* to act in the administration of the estate of a bankrupt, a refund under this Act that the bankrupt was entitled to claim before the appointment must not be paid after the appointment unless all returns required under this Act to be filed before the appointment have been filed and all amounts required under this Act to be paid by the bankrupt have been paid.

Overpayment of refund or interest

78 If an amount is paid to, or applied to a liability of, a person as a refund or as interest under this Act and the person is not entitled to the refund or interest, or the amount paid or applied exceeds the refund or interest to which the person is entitled, despite subsection 84(1) the Minister may at any time assess the person, and the person must pay to the Receiver General of Canada an amount equal to the refund, interest or excess on the day the refund, interest or excess, as the case may be, is paid to, or applied to a liability of, the person.

DIVISION G

Records and Information

Keeping records

79 (1) A person must keep all records that are necessary to determine whether the person has complied with this Act and, if the person is or was a constituent entity of an MNE group, all of that person's records that are necessary to determine whether other entities of the group have complied with this Act.

Minister may specify information

(2) The Minister may specify the form that a record is to take and any information that the record must contain.

Electronic records

(3) Every person required under this section to keep a record that does so electronically must ensure that all equipment and software necessary to make the record intelligible are available during the retention period required for the record.

General period for retention

(4) Subject to subsection (5), every person that is required to keep records must retain them for a period of eight years after the end of the fiscal year to which they relate or for any other period that may be prescribed by regulation.

Exception – general period for retention

(5) If, for a fiscal year, a person has not filed a return as and when required by Division B and subsequently files a return for the fiscal year, then the person must retain the records that are required by this section to be kept and that relate to the year for a period of eight years after the day the return is filed.

Inadequate records

(6) If a person fails to keep adequate records for the purposes of this Act, the Minister may require the person to keep any records that the Minister may specify, and the person must keep the records specified by the Minister.

Objection or appeal

(7) If a person that is required under this section to keep records serves a notice of objection, or is a party to an appeal or reference, under this Act, the person must retain every record that pertains to the subject matter of the objection, appeal or reference until the objection, appeal or reference is finally disposed of.

Demand by Minister

(8) If the Minister is of the opinion that it is necessary for the administration or enforcement of this Act, the Minister may, by a demand served personally, sent by confirmed delivery service, or sent electronically, require any person to keep records and to retain those records for any period that is specified in the demand, and the person must comply with the demand.

Permission for earlier disposal

(9) A person that is required under this section to keep records may dispose of them before the expiry of the period during which they are required to be kept if permission for their disposal is given by the Minister.

Requirement to provide information or records

80 (1) Subject to subsection (2), but despite any other provision of this Act, the Minister may – for any purpose related to the administration or enforcement of this Act by notice served personally, sent by confirmed delivery service, or sent electronically – require that any person provide the Minister, within such reasonable time as is stipulated in the notice, with any information or record.

Unnamed persons

(2) The Minister must not impose on any person (in this section referred to as a “third party”) a requirement to provide information or any record relating to one or more unnamed persons unless the Minister first obtains the authorization of a judge under subsection (3).

Judicial authorization

(3) A judge of the Federal Court may, on application by the Minister and subject to any conditions that the judge considers appropriate, authorize the Minister to impose on a third party a requirement under subsection (1) relating to an unnamed person, or more than one unnamed person (in this subsection referred to as the “group”), if the judge is satisfied by information on oath that

(a) the person or group is ascertainable; and

(b) the requirement is made to verify compliance by the person, or persons in the group, with any obligation under this Act.

Time period not to count

(4) If a person is sent or served with a notice of requirement under subsection (1), the period of time between the day on which an application for judicial review in respect of the requirement is made and the day on which the application is

finally disposed of is not to be counted in the computation of the period of time within which an assessment of the person may be made under subsection 84(1).

DIVISION H

Assessments

Assessment

81 (1) The Minister may assess a person for any tax or other amount payable by the person under this Act and may, despite any previous assessment covering, in whole or in part, the same matter, vary the assessment, reassess the person assessed or make any additional assessments that the circumstances require.

Liability not affected

(2) The liability of a person to pay an amount under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Minister not bound

(3) The Minister is not bound by any return, application or information provided by or on behalf of any person and may make an assessment despite any return, application or information provided or not provided.

Determination of refunds

(4) In making an assessment under subsection (1), the Minister may determine whether a refund under section 74 is payable to the person being assessed. If the Minister makes such a determination, the person is deemed to have made an application under section 74 within 2 years after the day on which the moneys were paid, and the Minister is deemed to have received the application on the date of the notice of assessment.

Irregularities

(5) No assessment is to be vacated or varied on an appeal by reason only of an irregularity, informality, error, defect or omission by any person in the observance of any directory provision of this Act.

Notice of assessment

82 (1) After making an assessment under this Act, the Minister must send to the person assessed a notice of the assessment.

Payment of remainder

(2) If the Minister has assessed a person for an amount, any portion of that amount remaining unpaid is payable to the Receiver General of Canada as of the date of the notice of assessment.

Payment by Minister on assessment

83 Subject to subsections 86(11), 96(2) and 104(2), if an assessment of a person in respect of a particular fiscal year establishes that the person has paid an amount in excess of the amount determined on that assessment to be payable in respect of the particular fiscal year by the person, the Minister must pay to the person a refund of the amount of the excess together with interest, at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, on the amount of the excess for the period beginning on the day that is the later of 30 days following the GIR due-date for the fiscal year and the day the excess was paid, and ending on the day on which the refund is paid.

Limitation period for assessments

84 (1) Subject to subsections (2) to (5) and (10), no assessment in respect of any tax or other amount payable by a person under this Act is permitted more than seven years after the later of

- (a)** the day on which the return to which the tax or other amount payable relates was filed under Division B; and

(b) the day on which the Minister receives the GIR.

Exception — objection or appeal

(2) An assessment in respect of any tax or other amount payable by a person under this Act may be made at any time if the assessment is made

- (a) to give effect to a decision on an objection or appeal;
- (b) with the written consent of an appellant to dispose of an appeal; or
- (c) to give effect to an alternative basis or argument advanced by the Minister under subsection (5).

Exception — neglect or fraud

(3) An assessment in respect of any matter may be made at any time if the person to be assessed has, or the person filing a return has, in respect of that matter,

- (a) made a misrepresentation that is attributable to neglect, carelessness or wilful default; or
- (b) committed fraud in making or filing a return or an application for a refund or in supplying any information under this Act.

Exception — other period

(4) If, in making an assessment, the Minister determines that a person has paid in respect of any matter an amount in respect of a particular fiscal year that was in fact payable in respect of another fiscal year, the Minister may at any time make an assessment for that other fiscal year in respect of that matter.

Alternative basis or argument

(5) The Minister may advance an alternative basis or argument in support of an assessment of a person, or in support of all or any portion of the total amount determined on assessment to be payable by a person under this Act, at any time after the period otherwise limited by subsection (1) for making the assessment unless, on an appeal under this Act,

- (a) there is relevant evidence that the person is no longer able to adduce without leave of the court; and
- (b) it is not appropriate in the circumstances for the court to order that the evidence be adduced.

Limitation — alternative basis or argument

(6) If a reassessment of a person is made that gives effect to an alternative basis or argument advanced by the Minister under subsection (5) in support of a particular assessment of the person, the Minister is not to reassess for an amount that is greater than the total amount of the particular assessment.

Exception — alternative basis or argument

(7) Subsection (6) does not apply to any portion of an amount determined on reassessment that the Minister would, if this Act were read without reference to subsection (5), be entitled to reassess under this Act at any time after the period otherwise limited by subsection (1) for making the reassessment.

Filing waiver

(8) A person may, within the time otherwise limited by subsection (1) for an assessment, waive the application of that subsection by filing with the Minister a waiver in the form and manner prescribed by the Minister specifying the period for which, and the matter in respect of which, the person waives the application of that subsection.

Revoking waiver

(9) Any person that has filed a waiver may revoke it by filing with the Minister a notice of revocation of the waiver in the form and manner prescribed by the Minister. The waiver remains in effect for 180 days after the notice is filed.

Exception — waiver

(10) An assessment in respect of any matter specified in a waiver filed under subsection (8) may be made at any time within the period specified in the waiver unless the waiver has been revoked under subsection (9), in which case an assessment may be made at any time during the 180 days that the waiver remains in effect.

Assessment deemed valid and binding

85 An assessment is, subject to being varied or vacated on an objection or appeal under this Act and subject to a re-assessment, deemed to be valid and binding despite any irregularity, informality, error, defect or omission in the assessment or in any proceeding under this Act relating to the assessment.

DIVISION I

Objections to Assessment

Objections to assessment

86 (1) A person that has been assessed and that objects to the assessment may, within 90 days after the date of the notice of the assessment, file with the Minister a notice of objection in the form and manner prescribed by the Minister setting out the reasons for the objection and all relevant facts.

Issue to be decided

(2) A notice of objection must

- (a)** reasonably describe each issue to be decided;
- (b)** specify in respect of each issue the relief sought, expressed as the change in any amount that is relevant for the purposes of the assessment; and
- (c)** provide the facts and reasons relied on by the person in respect of each issue.

Late compliance

(3) Despite subsection (2), if a notice of objection does not include the information required under paragraph (2)(b) or (c) in respect of an issue to be decided that is described in the notice, the Minister may request that the person provide the information, and that paragraph is deemed to be complied with in respect of the issue if, within 60 days after the request is made, the person submits the information in writing to the Minister.

Limitation on objections

(4) Despite subsection (1), if a person has filed a notice of objection to an assessment (in this section referred to as the “earlier assessment”) and the Minister makes a particular assessment under subsection (8) as a result of the notice of objection, the person may object to the particular assessment in respect of an issue only

- (a)** if the person complied with subsection (2) in the notice with respect to that issue; and
- (b)** with respect to the relief sought in respect of that issue as specified by the person in the notice.

Application of limitations

(5) If a particular assessment is made under subsection (8) pursuant to an objection made by a person to an earlier assessment, subsection (4) does not limit the right of the person to object to the particular assessment in respect of an issue that was part of the particular assessment and not part of the earlier assessment.

Limitation on objections

(6) Despite subsection (1), no objection may be made by a person in respect of an issue for which the right of objection has been waived by the person.

Acceptance of objection

(7) The Minister may accept a notice of objection even if it was not filed in the form and manner prescribed by the Minister.

Consideration of objection

(8) On receipt of a notice of objection, the Minister must, without delay, reconsider the assessment and vacate, confirm or vary it or make a reassessment.

Waiving reconsideration

(9) If, in a notice of objection, a person that wishes to appeal directly to the Tax Court of Canada requests the Minister not to reconsider the assessment objected to, the Minister may confirm the assessment without reconsideration.

Notice of decision

(10) After reconsidering an assessment under subsection (8) or confirming an assessment under subsection (9), the Minister must, in writing, notify the person objecting to the assessment of the Minister's decision.

Payment by Minister on objection

(11) If the variation of an assessment for a particular fiscal year as a result of an objection establishes that a person has paid an amount in excess of the amount determined on that assessment to be payable by the person, the Minister must pay to the person a refund of the amount of the excess together with interest, at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, on the amount of the excess for the period beginning on the day that is the later of 30 days following the GIR due-date for the fiscal year and the day the excess was paid, and ending on the day on which the refund is paid.

Extension of time by Minister

87 (1) If no objection to an assessment is filed under section 86 within the time limited by this Act, a person may make an application to the Minister to extend the time for filing a notice of objection and the Minister may grant the application.

Contents of application

(2) An application under subsection (1) must set out the reasons for which the notice of objection was not filed within the time limited by this Act for doing so.

How application made

(3) An application under subsection (1) must be made to the Assistant Commissioner of the Appeals Branch of the Agency, in the form and manner prescribed by the Minister and must be accompanied by a copy of the notice of objection.

Defect in application

(4) The Minister may accept an application under subsection (1) even though it was not made in accordance with subsection (3).

Duties of Minister

(5) On receipt of an application under subsection (1), the Minister must, without delay, consider the application and grant or refuse it, and, in writing, notify the person of the decision.

Date of objection if application granted

(6) If an application under subsection (1) is granted, the notice of objection is deemed to have been filed on the day of the decision of the Minister.

Conditions for grant of application

(7) No application may be granted under this section unless

- (a) the application is made within one year after the expiry of the time limited by this Act for objecting; and
- (b) the person demonstrates that
 - (i) within the time limited by this Act for objecting, the person
 - (A) was unable to act or to give a mandate to act in their name, or
 - (B) had a *bona fide* intention to object to the assessment,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application was made as soon as circumstances permitted it to be made.

DIVISION J

Appeal

Extension of time by Tax Court of Canada

88 (1) A person that has made an application under section 87 may apply to the Tax Court of Canada to have the application granted after either

- (a) the Minister has refused the application; or
- (b) 90 days have elapsed after the application was made and the Minister has not notified the person of the Minister's decision.

When application may not be made

(2) No application may be made under subsection (1) after the expiry of 30 days after the day on which notification of the decision referred to in subsection 87(5) was sent to the person.

How application made

(3) An application under subsection (1) must be made by filing in the Registry of the Tax Court of Canada, in accordance with the *Tax Court of Canada Act*, the documents referred to in subsection 87(3) and the notification, if any, referred to in subsection 87(5).

Copy to the Commissioner

(4) The Tax Court of Canada must send a copy of the application received under subsection (3) to the Commissioner.

Powers of Tax Court of Canada

(5) The Tax Court of Canada may dispose of an application received under subsection (3) by dismissing or granting it and, in granting it, the Court may impose any terms that it considers just or order that the notice of objection be deemed to be a valid objection as of the date of the order.

When application to be granted

(6) No application is to be granted by the Tax Court of Canada under this section unless

- (a) the application under subsection 87(1) is made within one year after the expiry of the time limited by this Act for objecting; and
- (b) the person demonstrates that
 - (i) within the time limited by this Act for objecting, the person

(A) was unable to act or to give a mandate to act in their name, or

(B) had a *bona fide* intention to object to the assessment,

(ii) given the reasons set out in the application under this section and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application under subsection 87(1) was made as soon as circumstances permitted it to be made.

Appeal to Tax Court of Canada

89 (1) Subject to subsection (2), a person that has filed a notice of objection to an assessment may appeal to the Tax Court of Canada to have the assessment varied or vacated, or a reassessment made, after either

(a) the Minister has confirmed the assessment or has reassessed; or

(b) 180 days have elapsed after the filing of the notice of objection and the Minister has not notified the person that the Minister has vacated or confirmed the assessment or has reassessed.

No appeal

(2) No appeal under subsection (1) may be instituted after the expiry of 90 days after notice that the Minister has reassessed or confirmed the assessment is sent to the person under subsection 86(10).

Amendment of appeal

(3) The Tax Court of Canada may, on any terms that it sees fit, authorize a person that has instituted an appeal in respect of a matter to amend the appeal to include any further assessment in respect of the matter that the person is entitled under this section to appeal.

Extension of time to appeal

90 (1) If no appeal to the Tax Court of Canada under section 89 has been instituted within the time limited by that section for doing so, a person may make an application to the Tax Court of Canada for an order extending the time within which an appeal may be instituted, and the Court may make an order extending the time for appealing and may impose any terms that it considers just.

Contents of application

(2) An application under subsection (1) must set out the reasons why the appeal was not instituted within the time limited by section 89 for doing so.

How application made

(3) An application under subsection (1) must be made by filing in the Registry of the Tax Court of Canada, in accordance with the *Tax Court of Canada Act*, the application and the notice of appeal.

Copy to Deputy Attorney General of Canada

(4) The Tax Court of Canada must send a copy of the application under subsection (1) to the office of the Deputy Attorney General of Canada.

When order to be made

(5) No order may be made under this section unless

(a) the application under subsection (1) is made within one year after the expiry of the time limited by section 89 for appealing; and

(b) the person demonstrates that

(i) within the time limited by section 89 for appealing, the person

- (A) was unable to act or to give a mandate to act in their name, or
- (B) had a *bona fide* intention to appeal,
- (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application,
- (iii) the application was made as soon as circumstances permitted it to be made, and
- (iv) there are reasonable grounds for the appeal.

Limitation on appeals to the Tax Court of Canada

91 (1) Despite section 89, if a person has filed a notice of objection to an assessment, the person may appeal to the Tax Court of Canada to have the assessment vacated, or a reassessment made, only with respect to

- (a) an issue in respect of which the person has complied with subsection 86(2) in the notice and the relief sought in respect of the issue as specified by the person in the notice; or
- (b) an issue described in subsection 86(5), if the person was not required to file a notice of objection to the assessment that gave rise to the issue.

No appeal if waiver

(2) Despite section 89, a person may not appeal to the Tax Court of Canada to have an assessment vacated or varied in respect of an issue for which the right of objection or appeal has been waived by the person.

Institution of appeals

92 An appeal to the Tax Court of Canada under this Act must be instituted in accordance with the *Tax Court of Canada Act*.

Disposition of appeal

93 (1) The Tax Court of Canada may dispose of an appeal from an assessment by

- (a) dismissing it; or
- (b) allowing it and
 - (i) vacating the assessment,
 - (ii) varying the assessment, or
 - (iii) referring the assessment back to the Minister for reconsideration and reassessment.

Partial disposition of appeal

(2) If an appeal raises more than one issue, the Tax Court of Canada may, with the consent in writing of the parties to the appeal, dispose of a particular issue by

- (a) dismissing the appeal with respect to the particular issue; or
- (b) allowing the appeal with respect to the particular issue and
 - (i) varying the assessment, or
 - (ii) referring the assessment back to the Minister for reconsideration and reassessment.

Disposal of remaining issues

(3) If a particular issue has been disposed of under subsection (2), the appeal with respect to the remaining issues may continue.

Appeal to Federal Court of Appeal

(4) If the Tax Court of Canada has disposed of a particular issue under subsection (2), the parties to the appeal may, in accordance with the provisions of the *Tax Court of Canada Act* or the *Federal Courts Act*, as they relate to appeals from decisions of the Tax Court of Canada, appeal the disposition to the Federal Court of Appeal as if it were a final judgment of the Tax Court of Canada.

References to Tax Court of Canada

94 (1) The Minister and a person may agree that a question arising under this Act, in respect of any assessment or proposed assessment of the person, should be determined by the Tax Court of Canada.

Time during consideration not to count

(2) For the purposes of making an assessment, filing a notice of objection to an assessment or instituting an appeal from an assessment, the time between the day on which proceedings are instituted in the Tax Court of Canada to have a question determined under subsection (1) and the day on which the question is finally determined must not be counted in the computation of

- (a)** the seven-year period referred to in subsection 84(1);
- (b)** the period within which a notice of objection to an assessment may be filed under section 86; or
- (c)** the period within which an appeal may be instituted under section 89.

Reference of common questions to Tax Court

95 (1) If the Minister is of the opinion that a question arising out of one and the same transaction or occurrence, or series of transactions or occurrences, is common to assessments or proposed assessments in respect of two or more persons, the Minister may apply to the Tax Court of Canada for a determination of the question.

Contents of application

(2) An application under subsection (1) must set out

- (a)** the question in respect of which the Minister requests a determination;
- (b)** the names of the persons that the Minister seeks to have bound by the determination; and
- (c)** the facts and reasons on which the Minister relies and on which the Minister based or intends to base assessments of each person named in the application.

Service

(3) A copy of the application under subsection (1) must be served by the Minister on each of the persons named in the application and on any other person that, in the opinion of the Tax Court of Canada, is likely to be affected by the determination of the question.

Determination of question by Tax Court

(4) If the Tax Court of Canada is satisfied that a determination of a question set out in an application under subsection (1) will affect assessments or proposed assessments in respect of two or more persons that have been served with a copy of the application, the Tax Court of Canada may make an order naming the persons in respect of whom the question will be determined and may

- (a)** if none of the persons named in the order has appealed from such an assessment, proceed to determine the question in any manner that it considers appropriate; or

(b) if one or more of the persons named in the order has or have appealed, make any order that it considers appropriate joining a party or parties to that appeal or those appeals and proceed to determine the question in any manner that it considers appropriate.

Determination final and conclusive

(5) Subject to subsection (6), if a question set out in an application under subsection (1) is determined by the Tax Court of Canada, the determination is final and conclusive for the purposes of any assessments of persons named in an order by the Court under subsection (4).

Appeal

(6) If a question set out in an application under subsection (1) is determined by the Tax Court of Canada, the Minister or any of the persons that have been served with a copy of the application and that are named in an order of the Court under subsection (4) may, in accordance with the provisions of this Act, the *Tax Court of Canada Act* or the *Federal Courts Act*, as they relate to appeals from decisions of the Tax Court of Canada, appeal from the determination.

Parties to appeal

(7) The parties that are bound by a determination under subsection (4) are parties to any appeal from the determination.

Time during consideration not counted

(8) For the purpose of making an assessment of a person, filing a notice of objection to an assessment or instituting an appeal from an assessment, the periods described in subsection (9) must not be counted in the computation of

- (a) the seven-year period referred to in subsection 84(1);
- (b) the period within which a notice of objection to an assessment may be filed under section 86; or
- (c) the period within which an appeal may be instituted under section 89.

Excluded periods

(9) The period that is not to be counted in the computation of the periods described in paragraphs (8)(a) to (c) is the time between the day on which an application that is made under this section is served on a person under subsection (3) and

- (a) in the case of a person named in an order of the Tax Court of Canada under subsection (4), the day on which the determination becomes final and conclusive and not subject to any appeal; or
- (b) in the case of any other person, the day on which the person is served with a notice that the person has not been named in an order of the Tax Court of Canada under subsection (4).

Payment by the Minister on appeal

96 (1) If the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada has, on the disposition of an appeal in respect of taxes, interest or a penalty payable under this Act by a person, referred an assessment back to the Minister for reconsideration and reassessment, or varied or vacated an assessment, the Minister must, without delay, whether or not an appeal from the decision of the Court has been or may be instituted,

- (a) where the assessment has been referred back to the Minister, reconsider the assessment and make a reassessment in accordance with the decision of the Court, unless otherwise directed in writing by the person; and
- (b) refund any overpayment resulting from the variation, vacation or reassessment;

and the Minister may repay any tax, interest or penalties or surrender any security accepted therefore by the Minister to that person or any other person who has filed another objection or instituted another appeal if, having regard to the reasons given on the disposition of the appeal, the Minister is satisfied that it would be just and equitable to do so, but for greater certainty, the Minister may, in accordance with the provisions of this Act, the *Tax Court of Canada Act*, the

Federal Courts Act or the *Supreme Court Act* as they relate to appeals from decisions of the Tax Court of Canada or the Federal Court of Appeal, appeal from the decision of the Court despite any variation or vacation of any assessment by the Court or any reassessment made by the Minister under paragraph (a).

Interest on refund

(2) If a refund is made under subsection (1) in respect of an assessment for a particular fiscal year, interest at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, must be paid for the period beginning on the day that is the later of 30 days following the GIR due-date for the fiscal year and the day on which the overpayment referred to in subsection (1) was paid, and ending on the day on which the refund is paid.

DIVISION K

Penalties

Failure to file a GIR

97 (1) If one or more constituent entities of a qualifying MNE group located in Canada is required to file a GIR in respect of the MNE group for a fiscal year with the Minister under subsection 59(1) or subparagraph 59(2)(b)(i) and either fails to file a GIR or, in the opinion of the Minister, fails to file a complete or substantially complete GIR with the Minister — or, if the GIR for the fiscal year will be filed by a qualifying foreign filing entity instead of by one or more of the constituent entities located in Canada, and no constituent entity of the qualifying MNE group located in Canada notifies the Minister under subsection 59(3) — on or before the GIR due-date for the fiscal year, each constituent entity located in Canada is jointly and severally, or solidarily, liable to a penalty equal to the amount determined by the formula

$$A \times B$$

where

A is \$25,000

B is the number of complete months, not exceeding 40, from the GIR due-date to the day on which the GIR is filed or notification is made.

GIR transitional penalty relief

(2) Subsection (1) does not apply to a constituent entity of a qualifying MNE group that is required to file a GIR in respect of the MNE group for a fiscal year with the Minister under subsection 59(3), if

(a) the fiscal year begins before January 1, 2027 and ends before July 1, 2028; and

(b) in the opinion of the Minister the entity used reasonable measures to ensure the correct application of the GloBE model rules in completing the GIR.

Failure to file a return under section 60

98 (1) A person that fails to file a return in respect of a fiscal year as and when required under section 60 is liable to a penalty equal to the total of

(a) an amount equal to 5% of the tax payable by the person under this Act in respect of the fiscal year that was unpaid when the return was required to be filed; and

(b) the amount obtained when 1% of the tax payable by the person under this Act in respect of the fiscal year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, from the day on which the return was required to be filed to the day on which the return is filed.

Repeated failure to file — conditions

(2) Subsection (3) applies to a person in respect of a fiscal year, if the person

- (a) fails to file a return in respect of the year as and when required by section 60;
- (b) fails to comply with a demand sent under section 61 for a return in respect of the year; and
- (c) was, before the time of the failure referred to in paragraph (a), liable to a penalty under subsection (1) for a return in respect of any of the three preceding fiscal years.

Repeated failure to file — penalty

- (3)** If subsection (2) applies to a person in respect of a fiscal year, the person is liable to a penalty equal to the total of
- (a) an amount equal to 10% of the tax payable by the person under this Act in respect of the fiscal year that was unpaid when the return was required to be filed; and
 - (b) the amount obtained when 2% of the tax payable by the person under this Act in respect of the fiscal year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 20, from the day on which the return was required to be filed to the day on which the return is filed.

False statements or omissions

(4) A person who knowingly, or under circumstances amounting to gross negligence, makes or participates in, assents to, or acquiesces in the making of, a false statement or omission in a return, application, form, certificate, statement, document, invoice, record or answer (each of which is in this subsection referred to as a “return”) is liable to a penalty equal to the greater of \$5,000 and 25% of the total of

(a) if the false statement or omission is relevant to the determination of an amount payable under this Act by the person, the amount, if any, by which

(i) the amount payable

exceeds

(ii) the amount that would be payable by the person if the amount payable were determined on the basis of the information provided in the return; and

(b) if the false statement or omission is relevant to the determination of a refund or any other payment that may be obtained under this Act, the amount, if any, by which

(i) the amount that would be the refund or other payment payable to the person if the refund or other payment were determined on the basis of the information provided in the return

exceeds

(ii) the amount of the refund or other payment payable to the person.

Failure to provide information

99 A person that fails to provide any information or record as and when required under this Act, or as prescribed by regulation, is liable to a penalty of \$2,500 for each such failure, in addition to any other penalty under this Act unless, in the case of any information or record required in respect of another person under subsection 80(1) or section 117, a reasonable effort was made by the person to obtain the information or record.

Unreasonable appeal

100 If the Tax Court of Canada disposes of an appeal by a person in respect of an amount payable under this Act or if such an appeal has been discontinued or dismissed without trial, the Court may, on the application of the Minister and whether or not the Court awards costs, order the person to pay to the Receiver General of Canada an amount not exceeding 10% of any part of the amount that was in controversy in respect of which the Court determines that there were no reasonable grounds for the appeal, if in the opinion of the Court one of the main purposes for instituting or maintaining any part of the appeal was to defer the payment of any amount payable under this Act.

Section 66 avoidance planning

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

planning activity includes

- (a) organizing or creating, or assisting in the organization or creation of, an arrangement, an entity, a plan or a scheme; and
- (b) participating, directly or indirectly, in the selling of an interest in, or the promotion of, an arrangement, an entity, a plan, a property or a scheme. (*activité de planification*)

section 66 avoidance planning by a transferor or a transferee, means planning activity in respect of a transaction or series of transactions that

- (a) is, or is part of, a section 66 avoidance transaction; and
- (b) one of the purposes of the transaction or series of transactions is to
 - (i) reduce a transferee's joint and several, or solidary, liability for tax owing under this Act by the transferor, or
 - (ii) reduce the transferor or transferee's ability to pay any amount owing, or that may become owing, under this Act. (*planification d'évitement en vertu de l'article 66*)

section 66 avoidance transaction means a transaction or series of transactions, in respect of which,

- (a) the conditions in paragraph 66(7)(a) or (b) are met; or
- (b) if subsection 66(7) applied to the transaction or series of transactions, the amount determined under subparagraph 66(7)(c)(ii) would exceed the amount determined under subparagraph 66(7)(c)(i). (*opération d'évitement en vertu de l'article 66*)

transferee refers to "transferee" as used in subsections 66(2) and 7. (*bénéficiaire du transfert*)

transferor refers to "transferor" as used in subsections 66(2) and (7). (*auteur du transfert*)

Section 66 avoidance penalty

(2) Every transferor or transferee that engages in, participates in, assents to or acquiesces in planning activity that the transferor or transferee, as the case may be, knows is section 66 avoidance planning, or would reasonably be expected to know is section 66 avoidance planning, but for circumstances amounting to gross negligence, 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) \$100,000.

General penalty

102 A person who fails to comply with any provision of this Act, or the regulations made under this Act, for which no other penalty is specified in this Act is liable to a penalty of \$2,500.

Payment of penalties

103 If a person is required to pay a penalty under this Act, the person is required to pay the penalty,

- (a) in the case of a penalty payable under section 97 or 98, on the day on which the person was required to file the return or notify the Minister; and

(b) in any other case, on the day on which the notice of original assessment of the penalty was sent.

Waiving or cancelling penalties

104 (1) The Minister may, on or before the day that is 10 calendar years after the end of a fiscal year in which a penalty became payable under this Act by a person, or on application by the person on or before that day, waive or cancel all or any portion of that penalty, and despite subsection 84(1), any assessment of the penalty payable by the person may be made that is necessary to take into account the waiver or cancellation of the penalty.

Refund of amount waived or cancelled

(2) If a person has paid an amount of penalty and the Minister waives or cancels any portion of that amount under subsection (1), the Minister must refund the portion of the amount and pay interest at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, on the portion of the amount beginning on the day that is 30 days after the day on which the Minister received a request in a manner satisfactory to the Minister to apply that subsection (or, if there is no such request, on the day the Minister waives or cancels the portion of the amount) and ending on the day on which the portion of the amount is paid as a refund or applied against another amount owed by the person to His Majesty in right of Canada.

DIVISION L

Offences and Punishment

Failure to file or comply

105 (1) A person that fails to file a return as and when required under this Act or that fails to comply with an obligation under subsection 79(6) or (8) or section 80, or an order made under section 110, is guilty of an offence and, in addition to any penalty otherwise provided under this Act, is liable on summary conviction to a fine of not less than \$2,000 and not more than \$40,000.

Saving

(2) A person that is convicted of an offence under subsection (1) for a failure to comply with a provision of this Act is not liable to a penalty imposed under this Act for the same failure, unless a notice of assessment for the penalty was issued before the information or complaint giving rise to the conviction was laid or made.

Offences for false or deceptive statement

106 (1) A person commits an offence that

(a) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive statement in a return, application, form, certificate, statement, document, invoice, record or answer filed or made as required under this Act;

(b) for the purposes of evading payment of any amount payable under this Act, or obtaining a refund or other payment payable under this Act to which the person is not entitled,

(i) destroys, alters, mutilates, conceals or otherwise disposes of any records of a person, or

(ii) makes, or assents to or acquiesces in the making of, a false or deceptive entry, or omits, or assents to or acquiesces in the omission, to enter a material particular in the records of a person;

(c) intentionally, in any manner, evades or attempts to evade compliance with this Act or payment of an amount payable under this Act;

(d) intentionally, in any manner, obtains or attempts to obtain a refund or other payment payable under this Act to which the person is not entitled; or

(e) conspires with any person to commit an offence described in any of paragraphs (a) to (d).

Punishment

(2) A person that commits an offence under subsection (1) is guilty of an offence punishable on summary conviction and, in addition to any penalty otherwise provided under this Act, is liable to a fine of not less than 50%, and not more than 200%, of the amount payable that was sought to be evaded, or of the refund or other payment sought, or, if the amount that was sought to be evaded cannot be ascertained, a fine of not less than \$2,000 and not more than \$40,000.

Prosecution on indictment

(3) A person that is charged with an offence described in subsection (1) may, at the election of Attorney General of Canada, be prosecuted on indictment and, if convicted, is, in addition to any penalty otherwise provided for under this Act, liable to a fine of not less than 100%, and not more than 200%, of the amount payable that was sought to be evaded, or of the refund or other payment sought, or, if the amount that was sought to be evaded cannot be ascertained, a fine of not less than \$5,000 and not more than \$100,000.

Penalty on conviction

(4) A person that is convicted of an offence under subsection (1) is not liable to a penalty imposed under this Act for the same evasion or attempt unless a notice of assessment for that penalty was issued before the information or complaint giving rise to the conviction was laid or made.

Stay of appeal

(5) If, in any appeal under this Act, substantially the same facts are at issue as those that are at issue in a prosecution under this section, the Minister may file a stay of proceedings with the Tax Court of Canada and, upon that filing, the proceedings before the Tax Court of Canada are stayed pending a final determination of the outcome of the prosecution.

Failure to pay tax

107 A person that intentionally fails to pay tax as and when required under this Act is guilty of an offence punishable on summary conviction and, in addition to any penalty or interest otherwise provided for under this Act, is liable to a fine not exceeding 20% of the amount of the tax that should have been paid.

Offence — confidential information

108 (1) A person is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 if the person

- (a)** contravenes subsection 121(2); or
- (b)** knowingly contravenes an order made under subsection 121(7).

Offence — confidential information

(2) A person to whom confidential information has been provided for a particular purpose under subsection 121(6) and that for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Definitions

(3) In subsection (2), **confidential information** has the same meaning as in subsection 121(1).

General offence

109 A person who fails to comply with any provision of this Act, or the regulations made under this Act, for which no other offence is specified in this Act is guilty of an offence punishable on summary conviction and is liable to a fine of not more than \$100,000.

Compliance orders

110 If a person is convicted by a court of an offence for a failure to comply with a provision of this Act, the court may make any order that it deems appropriate to enforce compliance with the provision.

Officers of corporations, etc.

111 If a person other than an individual commits an offence under this Act, every officer, director or representative of the person who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and is guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the person has been prosecuted or convicted.

Power to decrease punishment

112 Despite the *Criminal Code* or any other law, the court does not have the power to impose less than the minimum fine fixed under this Act in any prosecution or proceeding under this Act.

Information or complaint

113 (1) An information or complaint under this Act may be laid or made by any official of the Agency, by a member of the Royal Canadian Mounted Police or by any person authorized to do so by the Minister and, if an information or complaint purports to have been laid or made under this Act, it is deemed to have been laid or made by a person so authorized by the Minister and is not to be called in question for lack of authority of the informant or complainant, except by the Minister or a person acting for the Minister or for His Majesty in right of Canada.

Two or more offences

(2) An information or complaint in respect of an offence under this Act may be for one or more offences, and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Territorial jurisdiction

(3) An information or complaint in respect of an offence under this Act may be heard, tried or determined by any court having territorial jurisdiction where the accused is resident, carrying on a commercial activity, found, apprehended or in custody, despite that the matter of the information or complaint did not arise within that territorial jurisdiction.

Limitation of prosecutions

(4) No proceeding by way of summary conviction in respect of an offence under this Act, may be instituted more than eight years after the day on which the subject matter of the proceeding arose, unless the prosecutor and the defendant agree that it may be instituted after the eight years.

DIVISION M

Inspections

Authorized person

114 (1) A person authorized by the Minister (in this section referred to as an “authorized person”) to do so may, at all reasonable times, for any purpose related to the administration or enforcement of this Act, inspect, audit or examine the records, processes, property or premises of a particular person that may be relevant in determining the obligations of the particular person, or any other person, under this Act and whether the particular person, or any such other person, is in compliance with this Act.

Powers of authorized person

(2) Subject to subsection (3), an authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act

(a) enter any place in which the authorized person reasonably believes that the particular person keeps or should keep records, carries on any activity to which this Act applies or does anything in relation to that activity;

(b) require any individual 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

(c) require any person to give the authorized person all reasonable assistance with anything the authorized person is authorized to do under this Act.

Prior authorization

(3) If any place referred to in subsection (2) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant, except under the authority of a warrant issued under subsection (4).

Warrant to enter dwelling-house

(4) A judge may issue a warrant authorizing a person to enter a dwelling-house subject to the conditions specified in the warrant if, on *ex parte* application by the Minister, a judge is satisfied by information on oath that

(a) there are reasonable grounds to believe that the dwelling-house is a place referred to in subsection (2);

(b) entry into the dwelling-house is necessary for any purpose related to the administration or enforcement of this Act; and

(c) entry into the dwelling-house has been, or there are reasonable grounds to believe that entry will be, refused.

Orders if entry not authorized

(5) If a judge is not satisfied that entry into a dwelling-house is necessary for any purpose related to the administration or enforcement of this Act, the judge may, to the extent that access was or may be expected to be refused and that a record or property is or may be expected to be kept in the dwelling-house,

(a) order the occupant of the dwelling-house to provide a person with reasonable access to any record or property that is or should be kept in the dwelling-house; and

(b) make any other order that is appropriate in the circumstances to carry out the purposes of this Act.

Definition of dwelling-house

(6) In this section, ***dwelling-house*** means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence, and includes

(a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway; and

(b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence.

Compliance order

115 (1) On application by the Minister, a judge may, despite section 110, order a person to provide any access, assistance, information or record sought by the Minister under section 80 or 114 if the judge is satisfied that the person was required under section 80 or 114 to provide the access, assistance, information or record and did not do so.

Notice required

(2) An application under subsection (1) must not be heard before the end of five clear days after the day on which the notice of application is served on the person against whom the order is sought.

Judge may impose conditions

(3) The judge making an order under subsection (1) may impose any conditions in respect of the order that the judge considers appropriate.

Contempt of court

(4) If a person fails or refuses to comply with an order under subsection (1), a judge may find the person in contempt of court and the person is subject to the processes and the punishments of the court to which the judge is appointed.

Appeal

(5) An order by a judge under subsection (1) may be appealed to a court having appellate jurisdiction over decisions of the court to which the judge is appointed. An appeal does not suspend the execution of the order unless it is so ordered by a judge of the court to which the appeal is made.

Time period not to count

(6) If an application is commenced by the Minister under subsection (1) to order a person to provide any access, assistance, information, or document, the period of time between the day on which the person files a notice of appearance, or otherwise opposes the application, and the day on which the application is finally disposed of is not to be counted in the computation of the period of time within which an assessment may be made under subsection 84(1).

Search warrants

116 (1) A judge may, on *ex parte* application by the Minister, issue a warrant authorizing any person named in the warrant to enter and search any building, receptacle or place for any record or thing that may afford evidence of the commission of an offence under this Act and to seize the record or thing and, as soon as is practicable, bring it before, or make a report in respect of the record or thing to, the judge or, if that judge is unable to act, another judge of the same court, to be dealt with by the judge in accordance with this section.

Evidence on oath

(2) An application under subsection (1) must be supported by information on oath establishing the facts on which the application is based.

Issue of warrants

(3) A judge may issue a warrant under subsection (1) if the judge is satisfied that there are reasonable grounds to believe that

- (a) an offence under this Act has been committed;
- (b) a record or thing that may afford evidence of the commission of the offence is likely to be found; and
- (c) the building, receptacle or place specified in the application is likely to contain a record or thing referred to in paragraph (b).

Contents of warrant

(4) A warrant issued under subsection (1) must refer to the offence for which it is issued, identify the building, receptacle or place to be searched and the person that is alleged to have committed the offence, and it must be reasonably specific as to any record or thing to be searched for and seized.

Seizure

(5) Any person that executes a warrant issued under subsection (1) may seize, in addition to the record or thing referred to in that subsection, any other record or thing that the person believes on reasonable grounds affords evidence of the commission of an offence under this Act and must, as soon as is practicable, bring the record or thing before, or make a report in respect of the record or thing to, the judge that issued the warrant or, if that judge is unable to act, another judge of the same court, to be dealt with by the judge in accordance with this section.

Retention

(6) Subject to subsection (7), if any record or thing seized under subsection (1) or (5) is brought before a judge or a report in respect of the record or thing is made to a judge, the judge must, unless the Minister waives retention, order that the record or thing be retained by the Minister and the Minister must take reasonable care to ensure that it is preserved

until the conclusion of any investigation into the offence in relation to which the record or thing was seized or until it is required to be produced for the purposes of a criminal proceeding.

Return of records or things seized

(7) If any record or thing seized under subsection (1) or (5) is brought before a judge or a report in respect of the record or thing is made to a judge, the judge may, on the judge's own motion or on application by a person with an interest in the record or thing on three clear days notice of application to the Deputy Attorney General of Canada, order that the record or thing be returned to the person from which the record or thing was seized or to the person that is otherwise legally entitled to the record or thing, if the judge is satisfied that the record or thing

- (a)** will not be required for an investigation or a criminal proceeding; or
- (b)** was not seized in accordance with the warrant or this section.

Access and copies

(8) The person from which any record or thing is seized under this section is entitled, at all reasonable times and subject to any reasonable conditions that may be imposed by the Minister, to inspect the record or thing and, in the case of a document, to obtain one copy of the record at the expense of the Minister.

Definition of foreign-based information or record

117 (1) For the purposes of this section, *foreign-based information or record* means any information or record that is available or located outside Canada and that may be relevant to the administration or enforcement of this Act.

Requirement to provide foreign-based information

(2) Despite any other provision of this Act, the Minister may, by notice served personally, sent by confirmed delivery service or sent electronically, require a person resident in Canada or a non-resident person that carries on business in Canada to provide any foreign-based information or record.

Content of notice

(3) A notice referred to in subsection (2) must set out

- (a)** a reasonable period of time of not less than 90 days for the provision of the information or record;
- (b)** a description of the information or record being sought; and
- (c)** the consequences under subsection (8) to the person of the failure to provide the information or record being sought within the period of time set out in the notice.

Review by judge

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

Powers on review

(5) On hearing an application under subsection (4) in respect of a requirement, a judge may

- (a)** confirm the requirement;
- (b)** vary the requirement if the judge is satisfied that it is appropriate to do so in the circumstances; or
- (c)** set aside the requirement if the judge is satisfied that it is unreasonable.

Related person

(6) For the purposes of subsection (5), a requirement to provide information or a record is not to be considered unreasonable because the information or record is under the control of, or available to, a non-resident person that is not

controlled by the person on which the notice of the requirement under subsection (2) is served, or to which that notice is sent, if that person is related to the non-resident person.

Time during consideration not to count

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

- (a) the period of time set out in the notice of the requirement; and
- (b) the period of time within which an assessment may be made under section 84.

Consequence of failure

(8) If a person fails to comply substantially with a notice served or sent under subsection (2) and if the requirement is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act must, on motion of the Minister, prohibit the introduction by that person (or by any other person that is a constituent entity of an MNE group of which the first person is, at any time between the time the notice was served or sent under subsection (2) and the time the motion is heard, a constituent entity) of any foreign-based information or record covered by that notice.

Inquiry

118 (1) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not the person is an official of the Agency, to make any inquiry that the Minister may deem necessary with reference to anything relating to the administration or enforcement of this Act.

Appointment of hearing officer

(2) If the Minister, under subsection (1), authorizes a person to make an inquiry, the Minister must forthwith apply to the Tax Court of Canada for an order appointing a hearing officer before whom the inquiry will be held.

Powers of hearing officer

(3) For the purposes of an inquiry authorized under subsection (1), a hearing officer appointed under subsection (2) in relation to the inquiry has all the powers conferred on a commissioner by sections 4 and 5 of the *Inquiries Act* and that may be conferred on a commissioner under section 11 of that Act.

When powers to be exercised

(4) A hearing officer appointed under subsection (2) in relation to an inquiry must exercise the powers conferred on a commissioner by section 4 of the *Inquiries Act* in relation to any persons that the person authorized to make the inquiry considers appropriate for the conduct of the inquiry. However, the hearing officer is not to exercise the power to punish any person unless, on application by the hearing officer, a judge, including a judge of a county court, certifies that the power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom the power is proposed to be exercised 24 hours notice of the hearing of the application, or any shorter notice that the judge considers reasonable.

Rights of witnesses

(5) Any person who gives evidence in an inquiry authorized under subsection (1) is entitled to be represented by counsel and, on request made by the person to the Minister, to receive a transcript of that evidence.

Rights of person investigated

(6) Any person whose affairs are investigated in the course of an inquiry authorized under subsection (1) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection (2), on application by the Minister or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry, on the ground that the presence of the person and the person's counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.

Copies

119 If any record is seized, inspected, audited, examined or provided under any of sections 80, 114 to 116 and 118, the person by whom it is seized, inspected, audited or examined or to whom it is provided or any official of the Agency may make or cause to be made one or more copies of it and, in the case of an electronic record, make or cause to be made a print-out of the electronic record, and any record purporting to be certified by the Minister or an authorized person to be a copy of the record, or to be a print-out of an electronic record, made under this section is evidence of the nature and content of the original record and has the same probative force as the original record would have if it were proven in the ordinary way.

Compliance

120 A person must, unless the person is unable to do so, do everything the person is required to do under any of sections 80, 114 to 117 and 119 and no person is to, physically or otherwise, do or attempt to do any of the following:

- (a) interfere with, hinder or molest any official doing anything the official is authorized to do under this Act; or
- (b) prevent any official from doing anything the official is authorized to do under this Act.

DIVISION N

Confidentiality of Information

Definitions

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

authorized person means a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of His Majesty in right of Canada to assist in carrying out the provisions of this Act. (*personne autorisée*)

confidential information means information of any kind and in any form that relates to one or more persons and that is

- (a) obtained by or on behalf of the Minister for the purposes of this Act, or
- (b) prepared from information referred to in paragraph (a),

but does not include information that does not directly or indirectly reveal the identity of the person to whom it relates. (*renseignement confidentiel*)

court of appeal has the same meaning as in section 2 of the *Criminal Code*. (*cour d'appel*)

Provision of confidential information

(2) Except as authorized under this section, an official must not knowingly

- (a) provide, or allow to be provided, to any person any confidential information;
- (b) allow any person to have access to any confidential information; or
- (c) use any confidential information other than in the course of the administration or enforcement of this Act.

Confidential information evidence not compellable

(3) Despite any other Act of Parliament or other law, no official is required, in connection with any legal proceedings, to give or produce evidence relating to any confidential information.

Communications — proceedings

(4) Subsections (2) and (3) do not apply in respect of

- (a) criminal proceedings, either by indictment or on summary conviction, that have been commenced by the laying of an information or the preferring of an indictment, under an Act of Parliament;
- (b) any legal proceedings relating to the administration or enforcement of this Act, the *Canada Pension Plan*, the *Employment Insurance Act* or any other Act of Parliament or law of a province that provides for the payment of a tax or duty, before a court of record, including a court of record in a jurisdiction outside Canada; or
- (c) any legal proceedings under an international agreement relating to trade before
 - (i) a court of record, including a court of record in a jurisdiction outside Canada,
 - (ii) an international organization, or
 - (iii) a dispute settlement panel or an appellate body created under an international agreement relating to trade.

Authorized provision of confidential information

(5) The Minister may provide appropriate persons with any confidential information that may reasonably be regarded as necessary solely for a purpose relating to the life, health or safety of an individual.

Disclosure of confidential information

(6) An official may

- (a) provide to a person any confidential information that may reasonably be regarded as necessary for the purpose of
 - (i) the administration or enforcement of this Act, solely for that purpose, or
 - (ii) determining any liability or obligation of the person or any refund or other payment to which the person is or may become entitled under this Act;
- (b) provide, allow to be provided, or allow inspection of or access to any confidential information to or by
 - (i) any person, or any person within a class of persons, that the Minister may authorize, subject to any conditions that the Minister may specify, or
 - (ii) any person otherwise legally entitled to the information because of an Act of Parliament, solely for the purposes for which that person is entitled to the information;
- (c) provide confidential information
 - (i) to an official of the Department of Finance solely for the purposes of the administration of a federal-provincial agreement made under the *Federal-Provincial Fiscal Arrangements Act*,
 - (ii) to an official solely for the purpose of the formulation, evaluation or implementation of a fiscal or trade policy or for the purposes of the administration or enforcement of any Act of Parliament or law of a province that provides for the imposition or collection of a tax or duty or an international agreement relating to trade,
 - (iii) to an official solely for the purposes of the negotiation or implementation of an international agreement relating to trade, a tax treaty or an agreement for the exchange of information for tax purposes,
 - (iv) to an official as to the name, address, occupation, size or type of business of a person, solely for the purposes of enabling that department or agency to obtain statistical data for research and analysis,
 - (v) to an official solely for the purposes of setting off, against any sum of money that may be payable by His Majesty in right of Canada, a debt due to
 - (A) His Majesty in right of Canada, or

(B) His Majesty in right of a province on account of taxes payable to the province if an agreement exists between Canada and the province under which Canada is authorized to collect taxes on behalf of the province, or

(vi) to an official solely for the purposes of section 7.1 of the *Federal-Provincial Fiscal Arrangements Act*;

(d) provide confidential information to an official or any person employed by or representing the government of a foreign state, an international organization established by the governments of states, a community of states, or an institution of any such government or organization, in accordance with an international convention, agreement or other written arrangement relating to trade between the Government of Canada or an institution of the Government of Canada and the government of the foreign state, the organization, the community or the institution, solely for the purposes set out in that arrangement;

(e) provide confidential information, or allow the inspection of or access to confidential information, solely for the purposes of a provision contained in a tax treaty or in a listed international agreement (each as defined in subsection 248(1) of the *Income Tax Act*);

(f) provide confidential information solely for the purposes of sections 23 to 25 of the *Financial Administration Act*;

(g) use confidential information to compile information in a form that does not directly or indirectly reveal the identity of the person to whom the information relates;

(h) use, or provide to any person, confidential information solely for a purpose relating to the supervision, evaluation or discipline of an authorized person by His Majesty in right of Canada in respect of a period during which the authorized person was employed by or engaged by or on behalf of His Majesty in right of Canada to assist in the administration or enforcement of this Act, to the extent that the information is relevant for that purpose;

(i) provide access to records of confidential information to the Librarian and Archivist of Canada or a person acting on behalf of or under the direction of the Librarian and Archivist, solely for the purposes of section 12 of the *Library and Archives of Canada Act*, and transfer such records to the care and control of such persons solely for the purposes of section 13 of that Act;

(j) use confidential information relating to a person to provide information to that person;

(k) provide confidential information to a police officer, within the meaning assigned by subsection 462.48(17) of the *Criminal Code*, solely for the purpose of investigating whether an offence has been committed under the *Criminal Code*, or the laying of an information or the preferring of an indictment, if

(i) that information can reasonably be regarded as being relevant for the purpose of ascertaining the circumstances in which an offence under the *Criminal Code* may have been committed, or the identity of the person or persons who may have committed an offence, with respect to an official, or with respect to any person related to that official,

(ii) the official was or is engaged in the administration or enforcement of this Act, and

(iii) the offence can reasonably be considered to be related to that administration or enforcement; and

(l) provide information to a law enforcement officer of an appropriate police organization in the circumstances described in subsection 211(6.4) of the *Excise Act, 2001*.

Measures to prevent unauthorized use or disclosure

(7) The person presiding at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may order any measures that are necessary to ensure that confidential information is not used or provided to any person for any purpose not relating to that proceeding, including

(a) holding a hearing *in camera*;

(b) banning the publication of the information;

- (c) concealing the identity of the person to whom the information relates; and
- (d) sealing the records of the proceeding.

Disclosure to person or on consent

- (8)** An official may provide confidential information relating to a person
- (a) to that person; and
 - (b) with the consent of that person, to any other person.

Appeal from order or direction

(9) An order or direction that is made in the course of or in connection with any legal proceedings and that requires an official to give or produce evidence relating to any confidential information may, by notice served on all interested parties, be appealed forthwith by the Minister or by the person against whom the order or direction is made to

- (a) the court of appeal of the province in which the order or direction is made, in the case of an order or direction made by a court or other tribunal established under the laws of the province, whether or not that court or tribunal is exercising a jurisdiction conferred by the laws of Canada; or
- (b) the Federal Court of Appeal, in the case of an order or direction made by a court or other tribunal established under the laws of Canada.

Disposition of appeal

(10) The court to which an appeal is taken under subsection (9) may allow the appeal and quash the order or direction appealed from or dismiss the appeal, and the rules of practice and procedure from time to time governing appeals to the courts apply, with such modifications as the circumstances require, to an appeal instituted under that subsection.

Stay

(11) An appeal instituted under subsection (9) stays the operation of the order or direction appealed from until judgment is pronounced.

DIVISION O

Collection

Definitions

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

action means an action to collect a tax debt of a person and includes a proceeding in a court and anything done by the Minister under any of sections 125 to 130. (*action*)

legal representative of a person means a trustee in bankruptcy, an assignee, a liquidator, a curator, a receiver of any kind, a trustee, an heir, an administrator, an executor, a liquidator of a succession, a committee, or any other like person, administering, winding up, controlling or otherwise dealing in a representative or fiduciary capacity with any property, business, commercial activity or estate or succession that belongs or belonged to, or that is or was held for the benefit of, the person or the person's estate or succession. (*représentant légal*)

tax debt means any amount payable by a person under this Act. (*dette fiscale*)

Debts to His Majesty

(2) A tax debt is a debt due to His Majesty in right of Canada and is recoverable as such in the Federal Court or any other court of competent jurisdiction or in any other manner provided under this Act.

Court proceedings

(3) The Minister may not commence a proceeding in a court to collect a tax debt of a person in respect of an amount that may be assessed under this Act unless when the proceeding is commenced the person has been assessed for that amount.

No actions after limitation period

(4) The Minister may not commence an action to collect a tax debt after the end of the limitation period for the collection of the tax debt.

Limitation period

(5) The limitation period for the collection of a tax debt of a person

(a) begins

(i) if a notice of assessment in respect of the tax debt, or a notice referred to in subsection 131(1) in respect of the tax debt, is sent to or served on the person, on the day that is 90 days after the day on which the last one of those notices is sent or served, and

(ii) if no notice referred to in subparagraph (i) in respect of the tax debt was sent or served, on the earliest day on which the Minister can commence an action to collect that tax debt; and

(b) ends, subject to subsection (9), on the day that is 10 years after the day on which it begins.

Limitation period restarted

(6) The limitation period described in subsection (5) for the collection of a tax debt of a person restarts (and ends, subject to subsection (9), on the day that is 10 years after the day on which it restarts) on any day, before it would otherwise end, on which

(a) the person acknowledges the tax debt in accordance with subsection (7);

(b) all or part of the tax debt is reduced by the application of a refund under section 75;

(c) the Minister commences an action to collect the tax debt; or

(d) the Minister assesses, under this Act, another person in respect of the tax debt.

Acknowledgement of tax debts

(7) A person acknowledges a tax debt if the person

(a) promises, in writing, to pay the tax debt;

(b) makes a written acknowledgement of the tax debt, whether or not a promise to pay can be inferred from the acknowledgement and whether or not it contains a refusal to pay; or

(c) makes a payment, including a purported payment by way of a negotiable instrument that is dishonoured, on account of the tax debt.

Agent or mandatary or legal representative

(8) For the purposes of this section, an acknowledgement made by a person's agent or mandatary or legal representative has the same effect as if it were made by the person.

Extension of limitation period

(9) In computing the day on which a limitation period ends, there must be added the number of days on which one or more of the following is the case:

- (a) the Minister has postponed the collection action against the person under subsection (11) in respect of the tax debt;
- (b) the Minister has accepted and holds security in lieu of payment of the tax debt;
- (c) if the person was resident in Canada on the applicable date described in paragraph (5)(a) in respect of the tax debt, the person is non-resident;
- (d) the Minister may not, because of any of subsections 123(2) to (5), take any of the actions described in subsection 123(1) in respect of the tax debt; or
- (e) an action that the Minister may otherwise take in respect of the tax debt is restricted or not permitted under any provision of the *Bankruptcy and Insolvency Act*, of the *Companies' Creditors Arrangement Act* or of the *Farm Debt Mediation Act*.

Assessment before collection

(10) The Minister may not take any collection action under sections 125 to 130 in respect of any amount payable by a person that may be assessed under this Act, other than interest under section 70, unless the amount has been or may be assessed.

Minister may postpone collection

(11) The Minister may, subject to any terms and conditions that the Minister may stipulate, postpone collection action against a person in respect of all or any part of any amount assessed that is the subject of a dispute between the Minister and the person.

Interest on judgments

(12) If a judgment is obtained for any amount payable under this Act, including a certificate registered under section 125, the provisions of this Act under which interest is payable for a failure to pay an amount apply, with any modifications that the circumstances require, to the failure to pay the judgment debt and the interest is recoverable in the same manner as the judgment debt.

Litigation costs

(13) If an amount is payable by a person to His Majesty in right of Canada because of an order, judgment or award of a court in respect of the costs of litigation relating to a matter to which this Act applies, sections 125 to 131 apply to the amount as if it were payable under this Act.

Collection restrictions

123 (1) If a person is liable for the payment of an amount under this Act, the Minister must not, for the purpose of collecting the amount, take any of the following actions until the end of 90 days after the date of a notice of assessment issued under this Act in respect of the amount:

- (a) commence legal proceedings in a court;
- (b) certify the amount under section 125;
- (c) require a person to make a payment under subsection 126(1);
- (d) require an institution (within the meaning assigned by subsection 126(2)) or a person to make a payment under subsection 126(2);
- (e) require a person to turn over moneys under subsection 129(1); or
- (f) give a notice, issue a certificate or make a direction under subsection 130(1).

No action after service of notice of objection

(2) If a person has served a notice of objection under this Act to an assessment of an amount payable under this Act, the Minister must not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1) until the end of 90 days after the date of the notice to the person that the Minister has confirmed or varied the assessment.

No action after appealing to Tax Court of Canada

(3) If a person has appealed to the Tax Court of Canada from an assessment of an amount payable under this Act, the Minister must not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1) before the earlier of the day on which a copy of the decision of the Court is mailed to the person and the day on which the person discontinues the appeal.

No action pending determination by Tax Court

(4) If a person has agreed under subsection 94(1) that a question should be determined by the Tax Court of Canada, or if a person is served with a copy of an application made under subsection 95(1) to that Court for the determination of a question, the Minister must not take any of the actions described in subsection (1) for the purpose of collecting that part of an amount assessed, the liability for payment of which could be affected by the determination of the question, before the day on which the question is determined by the Court.

Action after judgment

(5) Despite any other provision of this section, if a person has served a notice of objection under this Act to an assessment or has appealed to the Tax Court of Canada from an assessment and agrees in writing with the Minister to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada in which the issue is the same, or substantially the same, as that raised in the objection or appeal of the person, the Minister may take any of the actions described in subsection (1) for the purpose of collecting the amount assessed, or a part of it, determined in a manner consistent with the judgment of the Court in the other action at any time after the Minister notifies the person in writing that the judgment has been given by the Court in the other action.

Collection of large amounts

(6) Despite subsections (1) to (5), if, at any time, the total of all amounts that a person has been assessed under this Act and that remain unpaid exceeds \$1,000,000, the Minister may collect up to 50% of the total.

Security

124 (1) The Minister may, if the Minister considers it advisable, accept security in an amount and a form satisfactory to the Minister for the payment of any amount that is or may become payable under this Act.

Surrender of excess security

(2) If a person that has given security, or on whose behalf security has been given, under this section requests in writing that the Minister surrender the security or any part of it, the Minister must surrender the security to the extent that its value exceeds, at the time the request is received by the Minister, the amount that is sought to be secured.

Additional security

(3) The adequacy of security furnished by or on behalf of a person under subsection (1) is to be determined by the Minister and the Minister may require additional security to be given or maintained from time to time by or on behalf of the person where the Minister determines that the security that has been given or maintained is no longer adequate.

Certificates

125 (1) Any amount payable by a person (in this section referred to as the “debtor”) under this Act that has not been paid as and when required under this Act may be certified by the Minister as an amount payable by the debtor.

Registration in court

(2) On production to the Federal Court, a certificate made under subsection (1) in respect of a debtor is to be registered in the Court and, when so registered, has the same effect, and all proceedings may be taken on the certificate, as if it were a judgment obtained in the Court against the debtor for a debt in the amount certified plus interest on the amount as provided under this Act to the day of payment and, for the purposes of those proceedings, the certificate is deemed to be a judgment of the Court against the debtor for a debt due to His Majesty in right of Canada and enforceable as such.

Costs

(3) All reasonable costs and charges incurred or paid for the registration in the Federal Court of a certificate made under subsection (1), or in respect of any proceedings taken to collect the amount certified, are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered.

Charge on property

(4) A document issued by the Federal Court evidencing a registered certificate in respect of a debtor, a writ of that Court issued pursuant to the certificate or any notification of the document or writ (which document, writ or notification is in this section referred to as a “memorial”) may be filed, registered or otherwise recorded for the purpose of creating a charge, lien or priority on, or a binding interest in, property in a province, or any interest in, or for civil law any right in, such property, held by the debtor, in the same manner as a document evidencing

(a) a judgment of the superior court of the province against a person for a debt owing by the person; or

(b) an amount payable or required to be remitted by a person in the province in respect of a debt owing to His Majesty in right of the province

may be filed, registered or otherwise recorded in accordance with the law of the province to create a charge, lien or priority on, or a binding interest in, the property or interest.

Creation of charge

(5) If a memorial has been filed, registered or otherwise recorded under subsection (4),

(a) a charge, lien or priority is created on, or a binding interest is created in, property in the province, or any interest in, or for civil law any right in, such property, held by the debtor; or

(b) such property, or interest or right in the property, is otherwise bound;

in the same manner and to the same extent as if the memorial were a document evidencing a judgment referred to in paragraph (4)(a) or an amount referred to in paragraph (4)(b), and the charge, lien, priority or binding interest created is subordinate to any charge, lien, priority or binding interest in respect of which all steps necessary to make it effective against other creditors were taken before the time the memorial was filed, registered or otherwise recorded.

Proceedings in respect of memorial

(6) If a memorial is filed, registered or otherwise recorded in a province under subsection (4), proceedings may be taken in the province in respect of the memorial, including proceedings

(a) to enforce payment of the amount evidenced by the memorial, interest on the amount and all costs and charges paid or incurred in respect of

(i) the filing, registration or other recording of the memorial, and

(ii) proceedings taken to collect the amount;

(b) to renew or otherwise prolong the effectiveness of the filing, registration or other recording of the memorial;

(c) to cancel or withdraw the memorial wholly or in respect of any of the property, or interests or rights, affected by the memorial; or

(d) to postpone the effectiveness of the filing, registration or other recording of the memorial in favour of any right, charge, lien or priority that has been or is intended to be filed, registered or otherwise recorded in respect of any property, or interest or rights, affected by the memorial;

in the same manner and to the same extent as if the memorial were a document evidencing a judgment referred to in paragraph (4)(a) or an amount referred to in paragraph (4)(b), except that, if in any such proceeding or as a condition precedent to any such proceeding, any order, consent or ruling is required under the law of the province to be made or given by the superior court of the province or by a judge or official of the court, a similar order, consent or ruling may be made or given by the Federal Court or by a judge or official of the Federal Court and, when so made or given, has the same effect for the purposes of the proceeding as if it were made or given by the superior court of the province or by a judge or official of the court.

Presentation of documents

(7) If

(a) a memorial is presented for filing, registration or other recording under subsection (4), or a document relating to the memorial is presented for filing, registration or other recording for the purpose of any proceeding described in subsection (6), to any official in the land registry system, personal property or movable property registry system, or other registry system, of a province; or

(b) access is sought to any person, place or thing in a province to make the filing, registration or other recording;

the memorial or document must be accepted for filing, registration or other recording or the access must be granted, as the case may be, in the same manner and to the same extent as if the memorial or document relating to the memorial were a document evidencing a judgment referred to in paragraph (4)(a) or an amount referred to in paragraph (4)(b) for the purpose of a like proceeding, except that, if the memorial or document is issued by the Federal Court or signed or certified by a judge or official of the Court, any affidavit, declaration or other evidence required under the law of the province to be provided with or to accompany the memorial or document in the proceedings is deemed to have been provided with or to have accompanied the memorial or document as so required.

Prohibition — sale, etc., without consent

(8) Despite any other law of Canada or law of a province, a sheriff or other person must not, without the written consent of the Minister, sell or otherwise dispose of any property or publish any notice or otherwise advertise in respect of any sale or other disposition of any property pursuant to any process issued or charge, lien, priority or binding interest created in any proceeding to collect an amount certified in a certificate made under subsection (1), interest on the amount or costs. However, if that consent is subsequently given, any property that would have been affected by that process, charge, lien, priority or binding interest if the Minister's consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be, is to be bound, seized, attached, charged or otherwise affected as it would be if that consent had been given at the time that process was issued or the charge, lien, priority or binding interest was created, as the case may be.

Completion of notices, etc.

(9) If information required to be set out by any sheriff or other person in a minute, notice or document required to be completed for any purpose cannot, because of subsection (8), be so set out without the written consent of the Minister, the sheriff or other person must complete the minute, notice or document to the extent possible without that information and, when that consent of the Minister is given, a further minute, notice or document setting out all the information must be completed for the same purpose, and the sheriff or other person, having complied with this subsection, is deemed to have complied with the Act, regulation or rule requiring the information to be set out in the minute, notice or document.

Application for order

(10) A sheriff or other person who is unable, because of subsection (8) or (9), to comply with any law or rule of court is bound by any order made by a judge of the Federal Court, on an *ex parte* application by the Minister, for the purpose of giving effect to the proceeding, charge, lien, priority or binding interest.

Deemed security

(11) If a charge, lien, priority or binding interest created under subsection (5) by filing, registering or otherwise recording a memorial under subsection (4) is registered in accordance with subsection 87(1) of the *Bankruptcy and Insolvency Act*, it is deemed

(a) to be a claim that is secured by a security and that, subject to subsection 87(2) of that Act, ranks as a secured claim under that Act; and

(b) to also be a claim referred to in paragraph 86(2)(a) of that Act.

Details in certificates and memorials

(12) Despite any other law of Canada or of a province, in any certificate made under subsection (1) in respect of a debtor, any memorial evidencing a certificate or any writ or document issued for the purpose of collecting an amount certified, it is sufficient for all purposes

(a) to set out, as the amount payable by the debtor, the total of amounts payable by the debtor without setting out the separate amounts making up that total; and

(b) to refer to the rate of interest to be charged on the separate amounts making up the amount payable in general terms as interest at the rate prescribed under section 4301 of the *Income Tax Regulations*, with any modifications that the circumstances require, applicable from time to time on amounts payable to the Receiver General of Canada, without indicating the specific rates of interest to be charged on each of the separate amounts or to be charged for any period.

Garnishment

126 (1) If the Minister has knowledge or suspects that a person is, or will be within one year, liable to make a payment to another person who is liable to pay an amount under this Act (in this section referred to as a “debtor”), the Minister may, by notice in writing, require the person to pay without delay, if the money is immediately payable, and in any other case, as and when the money becomes payable, the money otherwise payable to the debtor in whole or in part to the Receiver General of Canada on account of the debtor’s liability under this Act.

Garnishment of loans or advances

(2) Without limiting the generality of subsection (1), if the Minister has knowledge or suspects that within 90 days

(a) a bank, credit union, trust company or other similar person (in this section referred to as an “institution”) will loan or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a debtor that is indebted to the institution and that has granted security in respect of the indebtedness; or

(b) a person, other than an institution, will loan or advance money to, or make a payment on behalf of, a debtor who the Minister knows or suspects

(i) is employed by, or is engaged in providing services or property to, that person or was or will be, within 90 days, so employed or engaged, or

(ii) if that person is a corporation, is not dealing at arm’s length with that person;

the Minister may, by notice in writing, require the institution or person, as the case may be, to pay in whole or in part to the Receiver General of Canada on account of the debtor’s liability under this Act the money that would otherwise be so loaned, advanced or paid.

Effect of receipt

(3) A receipt issued by the Minister for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Effect of requirement

(4) If the Minister has, under this section, required a person to pay to the Receiver General of Canada on account of the liability under this Act of a debtor money otherwise payable by the person to the debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement applies to all such payments to be made by the person to the debtor until the liability under this Act is satisfied and operates to require payments to the Receiver General of Canada out of each such payment of any amount that is stipulated by the Minister in a notice in writing.

Failure to comply

(5) A person who fails to comply with a requirement under subsection (1) or (4) is liable to pay to His Majesty in right of Canada an amount equal to the amount that the person was required under that subsection to pay to the Receiver General of Canada.

Other failures to comply

(6) An institution or person that fails to comply with a requirement under subsection (2) with respect to money to be loaned, advanced or paid is liable to pay to His Majesty in right of Canada an amount equal to the lesser of

(a) the total of money so loaned, advanced or paid; and

(b) the amount that the institution or person was required under that subsection to pay to the Receiver General of Canada.

Assessment

(7) The Minister may assess any person for any amount payable under this section by the person to the Receiver General of Canada and, if the Minister sends a notice of assessment, sections 69 and 81 to 96 apply with any modifications that the circumstances require.

Time limit

(8) An assessment of an amount payable under this section by a person to the Receiver General of Canada is not to be made more than four years after the person receives the notice from the Minister requiring the payment.

Effect of payment as required

(9) If an amount that would otherwise have been advanced, loaned or paid to or on behalf of a debtor is paid by a person to the Receiver General of Canada in accordance with a notice from the Minister issued under this section, or with an assessment under subsection (7), the person is deemed for all purposes to have advanced, loaned or paid the amount to or on behalf of the debtor.

Recovery by deduction or set-off

127 If a person is indebted to His Majesty in right of Canada under this Act, the Minister may require the retention by way of deduction or set-off of any amount that the Minister may specify out of any amount that may be or become payable to that person by His Majesty in right of Canada.

Acquisition of debtor's property

128 For the purpose of collecting debts owed by a person to His Majesty in right of Canada under this Act, the Minister may purchase or otherwise acquire any interest in, or for civil law any right in, the person's property that the Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest or right so acquired in any manner that the Minister considers reasonable.

Money seized from debtor

129 (1) If the Minister has knowledge or suspects that a person is holding money that was seized by a police officer, in the course of administering or enforcing the criminal law of Canada, from another person who is liable to pay any amount under this Act (in this section referred to as the "debtor") and that is restorable to the debtor, the Minister may in writing require the person to turn over the money otherwise restorable to the debtor, in whole or in part, to the Receiver General of Canada on account of the debtor's liability under this Act.

Receipt of Minister

(2) A receipt issued by the Minister for money turned over as required under this section is a good and sufficient discharge of the requirement to restore the money to the debtor to the extent of the amount so turned over.

Seizure if failure to pay

130 (1) If a person fails to pay an amount as required under this Act, the Minister may in writing give 30 days notice to the person, addressed to their latest known address, of the Minister's intention to direct that the person's good and chattels, or moveable property, be seized and disposed of. If the person fails to make the payment before the expiry of the 30 days, the Minister may issue a certificate of the failure and direct that the person's goods and chattels, or movable property, be seized.

Disposition

(2) Property that has been seized under subsection (1) must be kept for 10 days at the expense and risk of the owner. If the owner does not pay the amount due together with all expenses within the 10 days, the Minister may dispose of the property in a manner that the Minister considers appropriate in the circumstances.

Proceeds of disposition

(3) Any surplus resulting from a disposition, after deduction of the amount owing and all expenses, must be paid or returned to the owner of the property seized.

Exemptions from seizure

(4) Goods and chattels, or moveable property, of any person in default that would be exempt from seizure under a writ of execution issued by a superior court of the province in which the seizure is made is exempt from seizure under this section.

Person leaving Canada

131 (1) If the Minister suspects that a person has left or is about to leave Canada, the Minister may, before the day otherwise fixed for payment, by notice to the person served personally or sent by confirmed delivery service addressed to their latest known address, demand payment of any amount for which the person is liable under this Act or would be so liable if the time for payment had arrived, and the amount must be paid without delay despite any other provision of this Act.

Seizure

(2) If a person fails to pay an amount required under subsection (1), the Minister may direct that goods and chattels, or movable property, of the person be seized, and subsections 130(2) to (4) apply, with any modifications that the circumstances require.

Authorization to proceed without delay

132 (1) Despite section 123, if, on *ex parte* application by the Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of a person would be jeopardized by a delay in its collection, the judge must, on any terms that the judge considers reasonable in the circumstances, authorize the Minister to, without delay, take any of the actions described in sections 125 to 130 in respect of that amount.

Notice of assessment not sent

(2) An authorization under subsection (1) in respect of an amount assessed in respect of a person may be granted by a judge despite that a notice of assessment in respect of that amount has not been sent to the person at or before the time the application is made where the judge is satisfied that the receipt of the notice of assessment by the person would likely further jeopardize the collection of the amount, and for the purposes of sections 122, 125, 126, 127, 129 and 130, the amount in respect of which an authorization is so granted shall be deemed to be an amount payable under this Act.

Affidavits

(3) Statements contained in an affidavit of a person filed in the context of an application under this section may be based on belief in which case it must include the grounds for that belief.

Service of authorization and notice of assessment

(4) An authorization granted under this section in respect of a person must be served by the Minister on the person within 72 hours after it is granted, except if the judge orders the authorization to be served at some other time specified in the authorization, and, where a notice of assessment has not been sent to the person at or before the time of the application, a notice of assessment for the assessed period must be served on the person together with the authorization.

How service effected

(5) For the purposes of subsection (4), service on a person must be effected by

- (a) personal service on the person; or
- (b) service in accordance with the directions, if any, of a judge.

Application to judge for direction

(6) If service on a person cannot reasonably be effected as and when required under this section, the Minister may, as soon as practicable, apply to a judge for further direction.

Review of authorization

(7) If a judge of a court has granted an authorization under this section in respect of a person, the person may, on six clear days notice to the Deputy Attorney General of Canada, apply to a judge of the court to review the authorization.

Limitation period for review application

(8) An application under subsection (7) to review an authorization must be made

- (a) within 30 days after the day on which the authorization was served on the person in accordance with this section; or
- (b) within any further time that a judge may allow, on being satisfied that the application was made as soon as practicable.

Hearing in camera

(9) An application under subsection (7) may, on the application of the person, be heard *in camera*, if the person establishes to the satisfaction of the judge that the circumstances of the case justify *in camera* proceedings.

Disposition of application

(10) On an application under subsection (7), the judge must determine the question summarily and may confirm, vary or set aside the authorization and make any other order that the judge considers appropriate.

Directions

(11) If any question arises as to the course to be followed in connection with anything done or being done under this section and there is no relevant direction in this section, a judge may give any direction with regard to the course to be followed that, in the opinion of the judge, is appropriate.

No appeal from review order

(12) No appeal lies from an order of a judge made under subsection (10).

DIVISION P

Evidence and Procedure

Service

133 (1) If the Minister is authorized or required to serve, issue or send a notice or other document on or to a person that

- (a) is a partnership, the notice or document may be addressed to the name of the partnership;
- (b) is a union, the notice or document may be addressed to the name of the union;
- (c) is a society, club, association, organization or other body, the notice or document may be addressed to the name of the body; and
- (d) carries on business under a name or style other than the name of the person, the notice or document may be addressed to the name or style under which the person carries on business.

Personal service

(2) If the Minister is authorized or required to serve, issue or send a notice or other document on or to a person that carries on a business, the notice or document is deemed to have been validly served, issued or sent if it is

- (a) if the person is a partnership, served personally on one of the partners or left with an adult person employed at the place of business of the partnership; or
- (b) left with an adult person employed at the place of business of the person.

Timing of receipt

134 (1) For the purposes of this Act and subject to subsection (2), anything sent by confirmed delivery service or first class mail is deemed to have been received by the person to which it was sent on the day it was mailed or sent.

Timing of payment

(2) A person that is required under this Act to pay an amount is deemed not to have paid it until it is received by the Receiver General of Canada.

Proof of sending or service by mail

135 (1) If, under this Act, provision is made for sending by confirmed delivery service a request for information, a notice or a demand, then an affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the request, notice or demand if the affidavit sets out that

- (a) the official has knowledge of the facts in the particular case;
- (b) the request, notice or demand was sent by confirmed delivery service on a specified day to a specified person and address; and
- (c) the official identifies as exhibits attached to the affidavit a true copy of the request, notice or demand and
 - (i) if the request, notice or demand was sent by registered or certified mail, the post office certificate of registration of the letter or a true copy of the relevant portion of the certificate, and
 - (ii) in any other case, the record that the document has been sent or a true copy of the relevant portion of the record.

Proof of personal service

(2) If, under this Act, provision is made for personal service of a request for information, a notice or a demand, then an affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the personal service and of the request, notice or demand if the affidavit sets out that

- (a) the official has knowledge of the facts in the particular case;
- (b) the request, notice or demand was served personally on a named day on the person to which it was directed; and
- (c) the official identifies as an exhibit attached to the affidavit a true copy of the request, notice or demand.

Proof of electronic delivery

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

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

Proof of failure to comply

(4) If, under this Act, a person is required to file a return or make an application, a statement, an answer or a certificate, then an affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the official has charge of the appropriate records and that, after a careful examination and search of the records, the official has been unable to find in a given case that the return, application, statement, answer or certificate has been made by that person, is evidence that in that case the person did not make the return, application, statement, answer or certificate.

Proof of time of compliance

(5) If, under this Act, a person is required to file a return or make an application, a statement, an answer or a certificate, then an affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the official has charge of the appropriate records and that, after a careful examination of the records, the official has found that the return, application, statement, answer or certificate was filed or made on a particular day, is evidence that it was filed or made on that day.

Proof of documents

(6) An affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the official has charge of the appropriate records and that a document attached to the affidavit is a document or true copy of a document, or a printout of an electronic document, made by or on behalf of the Minister or a person exercising the powers of the Minister or by or on behalf of a person, is evidence of the nature and contents of the document.

Proof of no appeal

(7) An affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the official has charge of the appropriate records and has knowledge of the practice of the Agency and that an examination of the records shows that a notice of assessment was mailed or otherwise sent to a person on a particular day under this Act and that, after a careful examination and search of the records, the official has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed, is evidence of the statements contained in the affidavit.

Presumption

(8) If evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an official of the Agency, it is not necessary to prove the signature of the person or that the person is such an official, nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

Proof of documents

(9) Every document purporting to have been executed under or in the course of the administration or enforcement of this Act over the name in writing of the Minister, the Commissioner or an official authorized to exercise the powers or perform the duties of the Minister under this Act is deemed to be a document signed, made and issued by the Minister, the Commissioner or the official, unless it has been called into question by the Minister or a person acting for the Minister or for His Majesty in right of Canada.

Mailing or sending date

(10) For the purposes of this Act, if a notice or demand that the Minister is required or authorized under this Act to send to a person is mailed, or sent electronically, to the person, the day of mailing or sending, as the case may be, is presumed to be the date of the notice or demand.

Date electronic notice sent

(11) For the purposes of this Act, if a notice or other communication in respect of a person, other than a notice or other communication that refers to the business number of a person, is made available in electronic format such that it can be read or perceived by a person or a computer system or other similar device, the notice or other communication is presumed to be sent to the person and received by the person on the date that an electronic message is sent, to the electronic address most recently provided before that date by the person to the Minister for the purposes of this subsection, informing the person that a notice or other communication requiring the person's immediate attention is available in the person's secure electronic account. A notice or other communication is considered to be made available if it is posted by the Minister in the person's secure electronic account and the person 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 electronic notice sent – business account

(12) For the purposes of this Act, a notice or other communication in respect of a person that is made available in electronic format such that it can be read or perceived by a person or computer system or other similar device and that refers to the business number of a person is presumed to be sent to the person and received by the person on the date that it is posted by the Minister in the secure electronic account in respect of the business number of the person, unless the person has requested, at least 30 days before that date, in a manner specified by the Minister, that such notices or other communications be sent by mail.

Date of assessment

(13) If a notice of assessment has been sent by the Minister as required under this Act, the assessment is deemed to have been made on the day of sending of the notice of assessment.

Proof of return — prosecutions

(14) In a prosecution for an offence under this Act, the production of a return, an application, a certificate, a statement or an answer required under this Act, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by or on behalf of that person, is evidence that the return, application, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by or on behalf of that person.

Proof of return — production of returns, etc.

(15) In a proceeding under this Act, the production of a return, an application, a certificate, a statement or an answer required under this Act, purporting to have been filed, delivered, made or signed by or on behalf of a person, is evidence that the return, application, certificate, statement or answer was filed, delivered, made or signed by or on behalf of that person.

Evidence

(16) In a prosecution for an offence under this Act, an affidavit of an official of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the official has charge of the appropriate records and that an examination of the records shows that an amount required under this Act to be paid to the Receiver General of Canada has not been received by the Receiver General of Canada, is evidence of the statements contained in the affidavit.

PART VII

Regulations

Regulations

136 (1) The Governor in Council may make regulations

- (a)** prescribing anything that, by this Act, is to be prescribed, determined or regulated by regulation;
- (b)** prescribing the evidence required to establish facts relevant to assessments under this Act;
- (c)** requiring any class of persons to make information returns respecting any class of information required in connection with the administration or enforcement of this Act; and
- (d)** generally to carry out the purposes and provisions of this Act.

Effect

(2) A regulation made under this Act shall have effect from the date it is published in the *Canada Gazette* or at such time thereafter as may be specified in the regulation, unless the regulation provides otherwise and

- (a)** has a relieving effect only;
- (b)** corrects an ambiguous or deficient enactment that was not in accordance with the objects of this Act or the *Global Minimum Tax Regulations*;
- (c)** is consequential on an amendment to this Act that is applicable before the date the regulation is published in the *Canada Gazette*; or
- (d)** gives effect to a budgetary or other public announcement, in which case the regulation shall not, except if paragraph (a), (b) or (c) applies, have effect before the date the announcement was made.

Coming into Force

2 Parts I, II and IV to VI of the *Global Minimum Tax Act*, as enacted by section 1, apply to fiscal years of a qualifying MNE group that begin on or after December 31, 2023.

