Explanatory Notes Relating to the Goods and Services Tax/Harmonized Sales Tax, Excise Duties and the Air Travellers Security Charge

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Preface

These explanatory notes describe proposed amendments to the *Excise Tax Act*, the *Excise Act*, the *Excise Act, 2001*, the *Air Travellers Security Charge Act* and related regulations. These explanatory notes describe these proposed amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors.

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

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Existing subsection 123(1) of the *Excise Tax Act* (the "Act") contains definitions that are used throughout Part IX of the Act.

Subclause 114(1)
Definition "commercial service"
ETA
123(1)

Existing definition "commercial service" is used in subsection 169(2) and sections 179 and 180 of the Act. A commercial service is defined to be any service in respect of tangible personal property, other than a service, supplied by a carrier, of shipping the property (described in paragraph (a) of the definition) or a financial service (described in paragraph (b) of the definition), as those terms are defined in this subsection.

The French version of the definition "commercial service" is amended to move the descriptions of the two excluded services to new paragraphs (a) and (b).

In addition, the definition "commercial service" is amended to also exclude a service described in new paragraph (c). Paragraph (c) describes a service that is acquired for consumption, use or supply in the course of, or in connection with, the performance of a mining activity (as that term is defined in new subsection 188.2(1) of the Act) in Canada.

New paragraph (c) would apply, for example, where

- a miner, that is a non-resident of Canada and is not registered under Subdivision D of Division V of Part IX of the Act, imports a computer into Canada from the United States and causes physical possession of the computer to be transferred in Canada to a registrant;
- during the time the computer is in Canada, it is used for the performance of mining activities, and the miner receives hosting services in respect of the computer (e.g., rent, electricity) from the registrant for consumption or use in the performance of the mining activities; and
- after several years later, the computer is shipped back to the United States.

In this case, as the supply of the hosting services was acquired by the miner for consumption, use or supply in the course of, or in connection with, the performance of mining activities in Canada, the hosting services would not be commercial services. As a result,

- the registrant could not use the rules in section 180 to claim input tax credits in respect of the importation of the computer; and
- the drop shipment rules in section 179 could not apply to deem the supply of hosting services made by the registrant to be made outside Canada.

This amendment is deemed to have come into force on February 5, 2022.

Subclause 114(2)
Definition "financial service"
ETA
123(1)

Services that meet the definition of "financial service" in subsection 123(1) of the Act are generally exempt under the Goods and Services Tax/Harmonized Sales Tax (GST/HST). A service will meet the definition of "financial service" if it first falls within any of paragraphs (a) to (m) of the definition and is not then excluded by any of paragraphs (n) to (t) of the definition.

New paragraph (r.6) is added to the definition to clarify that services provided by the operator of a payment card network are excluded from the definition of "financial service". Specifically, paragraph (r.6) describes a service that meets the two conditions described below.

The first condition is that the service is supplied by a payment card network operator in respect of a payment card network (as those terms are defined in section 3 of the *Payment Card Networks Act*). A payment card network is generally an electronic payment system that is used to accept, transmit or process transactions made by payment card for money, goods or services and to transfer information and funds among the network's participants. A payment card network operator is generally a person that operates or manages a payment card network, including by establishing standards and procedures for the acceptance, transmission or processing of payment transactions and by facilitating the electronic transfer of information and funds.

The second condition is that the supply of the service made by the payment card network operator includes the provision of an element that is described by any of subparagraphs (i), (ii) and (iii) of paragraph (r.6). Subparagraph (i) describes a service in respect of the authorization of a transaction in respect of money, an account, a credit card voucher, a charge card voucher or a financial instrument (as defined in subsection 123(1)). Subparagraph (ii) describes a clearing or settlement service in respect of money, an account, a credit card voucher, a charge card voucher or a financial instrument. Subparagraph (iii) describes a service rendered in conjunction with a service referred to in subparagraph (i) or (ii).

As a result, subparagraph (r.6)(iii) applies to exclude any service provided by a payment card network operator in respect of a payment card network if the service is rendered in conjunction with a service referred to in subparagraph (r.6)(i) or (ii). This would mean that, if a payment card network operator were to render a service of arranging for a service relating to the payment of an amount for which a credit card voucher has been issued (i.e., a service described by paragraphs

(a), (i) and (l) of the definition "financial service") and if the "arranging for" service were to be rendered in conjunction with a clearing service in respect of a credit card voucher, that "arranging for" service would be excluded from the definition of "financial service".

However, paragraph (r.6) does not include a prescribed service. Currently it is intended that the following services would be prescribed:

- a service of enabling merchants to accept payments by payment card by providing merchants with access to a payment card network for the transmission or processing of those payments; and
- a service in respect of the issuance of payment cards.

As a result, it is intended that, where a person that is a payment card network operator in respect of a payment card network is also an issuer or an acquirer (as those terms are defined in section 3 of the *Payment Card Networks Act*), paragraph (r.6) would not apply to services that the person renders to merchants as an acquirer or to payment cardholders as an issuer.

New paragraph (r.6) applies to a service rendered under an agreement for a supply if any consideration for the supply becomes due, or is paid without becoming due, after March 28, 2023. It also applies to a service rendered under an agreement for a supply if all of the consideration for the supply became due, or was paid, on or before March 28, 2023, except that, for the purposes of Part IX of the Act, other than Division IV of Part IX of the Act, new paragraph (r.6) does not apply in respect of the service if the following two conditions are met:

(1) the supplier did not, on or before March 28, 2023, charge, collect or remit any amount as or on account of tax under Part IX of the Act in respect of the supply; and
(2) the supplier did not, on or before March 28, 2023, charge, collect or remit any amount as or on account of tax under Part IX of the Act in respect of any other supply that is made under the agreement and that includes the provision of a service referred to in new paragraph (r.6).

As a result, new paragraph (r.6) may apply in the situation where, under an agreement, there are many supplies that include a service (e.g., in the situation where section 136.1 of the Act applies), and the consideration became due or was paid on or before March 28, 2023 for some of these supplies but not for others. In that situation, if tax was charged, collected or remitted on any of these supplies on or before March 28, 2023, new paragraph (r.6) applies to every supply made under that agreement. Otherwise, for the purposes of Part IX of the Act, other than Division IV of Part IX of the Act, new paragraph (r.6) only applies to those supplies in respect of which any consideration becomes due, or is paid, after that day.

For the purposes of Division IV of Part IX of the Act, new paragraph (r.6) applies to every service rendered under an agreement for a supply irrespective of when consideration for the supply becomes due or is paid without becoming due (i.e., it applies if any consideration for the supply becomes due or is paid without becoming due, after March 28, 2023 or if all of the

consideration for the supply became due, or was paid without becoming due, on or before March 28, 2023).

As well, a transitional provision allows increased time for assessment, reassessment or additional assessment under Part IX of the Act of an amount in respect of new paragraph (r.6). This transitional provision provides that, for making such assessment, reassessment or additional assessment, the Minister of National Revenue has until the later of

- the day that is one year after the day on which the legislation enacting these proposed amendments receives royal assent; and
- the last day of the period for assessment, reassessment or additional assessment otherwise allowed under section 298 of the Act.

Generally, this provision is intended to take into account the enactment of new paragraph (r.6). As a result, such assessment, reassessment or additional assessment would include an assessment, reassessment or additional assessment of any tax payable by a person, of a rebate, of any amount payable by a person under section 264 of the Act and of the net tax of the person, including an assessment, reassessment or additional assessment of the net tax of a selected listed financial institution arising as a result of an adjustment to net tax required by subsection 225.2(2) of the Act.

Subclause 114(3)
Definition “pension plan”
ETA
123(1)

The definition “pension entity” of a pension plan (as defined in this subsection) is a person described by either paragraph (a), (b) or (c) of the definition. Paragraph (b) describes a corporation referred to in paragraph (b) of the definition “pension plan”. This paragraph is amended to correct an error.

The amendment to paragraph (b) comes into force on royal assent.

Clause 115
Later addition to net tax of employer
ETA
172.1(8.01)

New subsection 172.1(8.01) of the Act imposes certain information requirements on a participating employer of one or more pension plans (as those terms are defined in subsection 123(1) of the Act). These information requirements generally apply when an assessment of the employer’s net tax for a reporting period results in the employer having to add to that net tax an amount of tax that it is deemed by section 172.1 to have collected in respect of a supply that the employer is deemed to have made under that section. If these information requirements are met,

subsection 172.1(8.01) may then effectively result in an extension of the limitation period to claim an input tax credit or a rebate under section 261.01 of the Act, or to make an election under section 261.01, in respect of the amount.

More specifically, subsection 172.1(8.01) applies when all the following conditions are met:

- the Minister of National Revenue makes an assessment (which, as defined in subsection 123(1), includes a reassessment) of the net tax for a reporting period of a person that was a participating employer of one or more pension plans during the reporting period;
- in making the assessment, the Minister determines that the tax in respect of
  - a supply of all or part of a specified resource (as defined in subsection 172.1(1)) deemed to have been made by the person under any of paragraphs 172.1(5)(a) and (5.1)(a), or
  - a supply of an employer resource (as defined in subsection 172.1(1)) deemed to have been made by the person under any of paragraphs 172.1(6)(a), (6.1)(a), (7)(a) and (7.1)(a),

  is greater than the amount of tax that has been accounted for in respect of the supply prior to the Minister's assessment of the net tax for the reporting period; and
- the person has paid or remitted all amounts owing to the Receiver General in respect of the person's net tax for the reporting period.

Where these conditions are met, the rules is paragraphs 172.1(8.01)(a) and (b) apply.

Paragraph 172.1(8.01)(a) requires that the person provide prescribed information in respect of the supply described above to each pension entity (as defined in subsection 123(1)) that is deemed to have paid tax in respect of the specified resource or part, or in respect of the employer resource, as the case may be, under whichever of paragraphs 172.1(5)(d), (5.1)(d), (6)(d), (6.1)(d), (7)(d) and (7.1)(d) is applicable (referred to in subsection 172.1(8.01) as the "applicable paragraph"). This prescribed information must be provided to each pension entity in prescribed form and in a manner satisfactory to the Minister. Further, this prescribed information is required to be provided to each pension entity before the day that is one year after the later of the following two days:

- the day on which the Minister sends the notice of the assessment to the person; and
- the first day on which all amounts owing to the Receiver General in respect of the person's net tax for the reporting period of the person, if any, have been paid or remitted to the Receiver General.

Paragraph 172.1(8.01)(b) applies to a pension entity of a pension plan where the following conditions are met:

- a participating employer of the pension plan — that is deemed to have made a supply of all or part of a specified resource or of an employer resource — is required by paragraph 172.1(8.01)(a) to provide prescribed information to the pension entity and in fact provides that information to the pension entity; and
- the information is received by the pension entity on a particular day that is after the end of the last claim period (as defined in subsection 259(1) of the Act) of the pension entity that ends within two years after the day on which the supply is deemed to have been made.

Where the above conditions are met, subparagraphs 172.1(8.01)(b)(i) and (ii) apply.

Subparagraph 172.1(8.01)(b)(i) provides that the pension entity is deemed, for the purposes referred to in the applicable paragraph (i.e., whichever of paragraphs 172.1(5)(d), (5.1)(d), (6)(d), (6.1)(d), (7)(d) or (7.1)(d) that is applicable in respect of the supply), to have paid tax on the particular day (i.e., the day the information is received by the pension entity) equal to the amount determined by multiplying

- the amount of tax in respect of the specified resource or part, or in respect of the employer resource, as the case may be, that the pension entity is deemed to have paid under the applicable paragraph;

by the amount determined by dividing

- the difference between the total tax determined in respect of the supply that the participating employer is deemed to have collected and the amount that had been accounted for in respect of the supply prior to the assessment by the Minister;

by

- the total tax determined in respect of the supply that the participating employer is deemed to have collected.

Subparagraph 172.1(8.01)(b)(ii) provides that, if the applicable paragraph in respect of the supply is any of paragraph 172.1(5)(d), (5.1)(d), (6)(d), or (6.1)(d), the tax that the pension entity is deemed to have paid under subparagraph 172.1(8.01)(b)(i) is deemed to be in respect of the supply of the specified resource or part, or in respect of the supply of the employer resource, as the case may be, that the pension entity is deemed to have received under the applicable paragraph. This deeming rule in subparagraph 172.1(8.01)(b)(ii) is relevant for the purposes of the operation of amended subsections 232.01(5) and 232.02(4) of the Act. It is also relevant in respect of the ability of the pension entity to claim an input tax credit in respect of that tax.

It should be noted that if following the assessment the total tax determined in respect of the supply that the participating employer is deemed to have collected is subsequently revised (such as if the participating employer appeals the assessment or the Minister issues a new assessment),

then the amount of tax that the pension entity would be deemed to have paid under subparagraph 172.1(8.01)(b)(i) would be based on this new determination.

For example, consider the case where a participating employer of a pension plan is a registrant and has a fiscal year that is a calendar year and a pension entity of the pension plan is a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act) and a registrant with a claim period and reporting period that is a calendar year. The participating employer is deemed to have made a supply on December 31, 2021 of a specified resource to the pension entity under paragraph 172.1(5)(a). The participating employer accounted for $100 of tax in respect of the supply, of which $40 was the amount that the pension entity as a selected listed financial institution was deemed to have paid in respect of the specified resource under paragraph 172.1(5)(d) (i.e., the federal component of the $100 total tax). However, on September 1, 2024, the Minister assesses the participating employer for its reporting period ending on December 31, 2021 and determines that the tax in respect of the supply was actually $150, of which $60 was the amount that the pension entity as a selected listed financial institution was deemed to have paid in respect of the specified resource under paragraph 172.1(5)(d) (i.e., the federal component of the $150 total tax). On October 31, 2024, the participating employer pays to the Receiver General all amounts owing in respect of its net tax for its reporting period ending on December 31, 2021. On November 30, 2024, the participating employer provides, in prescribed form and in a manner satisfactory to the Minister, prescribed information in respect of the supply and assessment to the pension entity.

- In this case, the participating employer complied with the requirement in paragraph 172.1(8.01)(a) to notify the pension entity within one year of the later of September 1, 2024 and October 31, 2024. As well, the notification was received by the pension entity after December 31, 2023 (i.e., the last day of the pension entity's claim period that ends two years after the day, December 31, 2021, that the tax in respect of the supply was deemed to have been paid). Therefore, the deeming rule in subparagraph 172.1(8.01)(b)(i) would apply in respect of the supply. As a result, the pension entity would, subject to any subsequent determination, be deemed, for the purposes listed in paragraph 172.1(5)(d), to have paid tax on November 30, 2024 of $20, being the amount determined by multiplying $60 (the amount that the pension entity is deemed by paragraph 172.1(5)(d) to have paid in respect of the supply, following the assessment) by the quotient obtained by dividing $50 (i.e., the difference between $150 (the tax in respect of the supply) and $100 (the amount that had been accounted for in respect of the supply prior to the assessment) by $150 (the tax in respect of the supply)).
- If, however, the employer were to successfully appeal the September 1, 2024 assessment and it were to be determined that its original determination of $100 tax in respect of the supply was correct, then subparagraph 172.1(8.01)(b)(i) would instead now deem the pension entity to have paid tax on November 30, 2024 of $0 rather than $20, with $0 being the amount determined by multiplying $40 (the amount that the pension entity is

deemed by paragraph 172.1(5)(d) to have paid in respect of the supply, following the assessment) by the quotient obtained by dividing $0 (i.e., the difference between $100 (the tax in respect of the supply) and $100 (the amount that had been accounted for in respect of the supply prior to the assessment)) by $100 (the tax in respect of the supply).

New subsection 172.1(8.01) applies in respect of any notice of assessment, reassessment or additional assessment sent by the Minister. However, in the case where the notice is sent by the Minister to a person on or before August 9, 2022, in applying paragraph 172.1(8.01)(a) to the person that received the assessment, there are two differences. First, the person is not required to provide the prescribed information referred to in that paragraph to each affected pension entity, but may voluntarily do so. Second, if the person chooses to provide the prescribed information to an affected pension entity, it must do so on a day that is before the day that is one year after the later of the following two days:

- the day on which the Act of Parliament that implements subsection 172.1(8.01) receives royal assent; and
- the first day on which all amounts owing to the Receiver General in respect of the net tax for the reporting period of the person, if any, have been paid or remitted to the Receiver General;

in order for the rules in paragraph 172.1(8.01)(b) to apply to the pension entity in respect of the assessment.

Clause 116
Pension entity — assessment of supplier
ETA
172.11

New section 172.11 of the Act contains a rule that may apply in respect of a supply to a pension entity of a pension plan (as those terms are defined in subsection 123(1) of the Act). This rule has the effect of changing the day on which tax is considered to have become payable by the pension entity in respect of the supply for certain specific purposes.

Specifically, when section 172.11 applies in respect of tax that became payable on a particular day, section 172.11 provides that the amount is deemed to have become payable by the pension entity on the day on which the pension entity pays the amount of tax and not to have become payable on the particular day. This deeming rule applies for the purposes of sections 225.2 (determination of adjustments to net tax of selected listed financial institutions), 232.01 and 232.02 (rules governing tax adjustment notes) and 261.01 (rebate and election rules for pension entities) of the Act and the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*.

However, the deeming rule in section 172.11 applies in respect of tax in respect of a supply of property or a service that became payable by a pension entity of a pension plan on a particular

day only where each of the conditions in paragraphs 172.11(a), (b), (c) and (d) apply in respect of that tax.

Paragraph 172.11(a) requires that the supplier of the property or service did not charge the pension entity that tax before a specific day. This specific day is the last day of the last claim period (as defined in subsection 259(1) of the Act) of the pension entity that ends within two years after the end of the claim period of the pension entity that includes the particular day on which that tax became payable.

Paragraph 172.11(b) requires that the supplier disclose in writing to the pension entity that the Minister of National Revenue has assessed the supplier for that tax.

Paragraph 172.11(c) requires that the pension entity pay that tax after the end of that last claim period (i.e., the claim period that ends within two years after the end of the claim period of the pension entity that includes the particular day on which that tax became payable).

Paragraph 172.11(d) requires that that tax is not included in determining either

- a rebate under subsection 261.01(2) that is claimed by the pension entity for that last claim period or an earlier claim period of the pension entity; or
- an amount that a qualifying employer (as defined in subsection 261.01(1)) of the pension plan deducts, in determining its net tax for a reporting period of the employer, pursuant to a joint election made under any of subsections 261.01(5), (6) and (9) with the pension entity for that last claim period or an earlier claim period of the pension entity.

New section 172.11 applies in respect of tax that is paid by a pension entity in a claim period of the pension entity that ends after August 9, 2022.

Clause 117
Assessment of supplier
ETA
172.2(3.1)

New subsection 172.2(3.1) of the Act contains a rule that may apply in respect of a supply to a master pension entity of a pension plan (as those terms are defined in subsection 123(1) of the Act). This rule has the effect of changing the day on which tax is considered to have become payable by the master pension entity in respect of the supply for the purposes of subsection 172.2(3).

Specifically, when subsection 172.2(3.1) applies in respect of tax that became payable on a particular day, it provides that, for the purposes of subsection 172.2(3), the amount is deemed to have become payable by the master pension entity on the day on which the master pension entity pays the amount of tax and not to have become payable on the particular day.

However, the deeming rule in subsection 172.2(3.1) applies in respect of tax in respect of a supply of property or a service that became payable by a master pension entity on a particular

day only where each of the conditions in paragraphs 172.2(3.1)(a), (b) and (c) apply in respect of that tax.

Paragraph 172.2(3.1)(a) requires that the supplier of the property or service did not charge the master pension entity that tax within two years of the particular day.

Paragraph 172.2(3.1)(b) requires that the supplier disclose in writing to the master pension entity that the Minister of National Revenue has assessed the supplier for that tax.

Paragraph 172.2(3.1)(c) requires that the master pension entity pay that tax on a day that is more than two years after the particular day.

New subsection 172.2(3.1) applies in respect of tax that is paid by a master pension entity after August 9, 2022.

Clause 118
Cryptoassets
ETA
188.2

New section 188.2 of the Act contains rules respecting the application of the GST/HST to mining activities in respect of cryptoassets and to compensation received as a consequence of performing a mining activity.

Section 188.2 is deemed to have come into force on February 5, 2022 except that, for the purposes of determining an input tax credit of a person, new paragraph 188.2(4)(c) does not apply in respect of property or a service acquired, imported or brought into a participating province before February 6, 2022.

188.2(1) - Definitions

New subsection 188.2(1) of the Act defines the following terms for the purposes of section 188.2.

"*cryptoasset*"

A cryptoasset is property (as defined in subsection 123(1) of the Act and, as a result, does not include money) that is a digital representation of value and that exists only at a digital address of a publicly distributed ledger (e.g., blockchain). A cryptoasset for the purposes of this section refers to a type of property and not necessarily to a specific unit of that property. However, a cryptoasset does not include prescribed property. Currently, no property is proposed to be prescribed.

A cryptoasset currently includes, but is not limited to, any property that is a virtual payment instrument (as defined in subsection 123(1)).

"*mining activity*"

A mining activity means an activity described in any of paragraphs (a) to (c) of the definition "mining activity".

Paragraph (a) describes an activity of validating transactions in respect of a cryptoasset and adding those transactions to a publicly distributed ledger on which the cryptoasset exists at a digital address.

Paragraph (b) describes an activity of maintaining and permitting access to a publicly distributed ledger on which a cryptoasset exists at a digital address.

Paragraph (c) describes an activity of allowing computing resources to be used for the purpose of, or in connection with, performing any of the activities described in paragraph (a) or (b) of the definition in respect of a cryptoasset. As a result, if for example a particular person does not themselves perform activities described by paragraph (a) (i.e., validating cryptoasset transactions and adding those transactions to the cryptoasset's ledger), but allows another person to use the particular person's computing resources so that the other person can perform activities described by paragraph (a), both the particular person and the other person would be performing mining activities in respect of the cryptoasset.

In addition to applying in section 188.2, the definition "mining activity" is also used in the definition "commercial service" in subsection 123(1).

"*mining group*"

A mining group is defined as a group of persons that, under an agreement,

- pool property or services for the performance of mining activities; and
- share mining payments in respect of the mining activities among members of the group.

As a result, a mining group is generally a group of persons that agree both to each contribute property or services in order to perform mining activities together and to each share in the risk of the success of the mining activities of the group.

A mining group may have as few as two members, such as if one member were performing mining activities and another member were performing administrative services in respect of the group.

As well, a mining group may be under several agreements. For example, a mining group composed of a mining group operator and five other persons may be under five agreements, each made between the mining group operator and one of the five other persons.

A mining group may commonly be referred to as a "mining pool" though not all mining pools necessarily are described by the definition "mining group". For example, a mining pool would not be a mining group if it were agreed among members of the mining pool that

(1) members provide computer services for the performance of mining activities in respect of the mining pool; and

(2) the compensation members receive for the computer services is based solely on the amount of computer services that they provide and members have no right directly or indirectly to any mining payment received by the mining pool (i.e., the members receive neither a direct share of the mining payment nor a payment or adjustment determined based on the mining payment).

While a mining group operator (as defined in this subsection) may coordinate several groups of persons performing mining activities, each group of persons—under a common agreement to

pool property or services and to share with all or part of the group all or part of any fee, reward or any other form of payment, received or generated as a consequence of performing the mining activities—would constitute a separate mining group.

"*mining group operator*"

A mining group operator is defined in respect of a mining group. A mining group operator is a person that coordinates, oversees or manages the mining activities of the mining group.

"*mining payment*"

A mining payment is defined in respect of a mining activity. A mining payment is money, property or a service that is a fee, reward or other form of payment and that is received or generated as consequence of the mining activity being performed.

188.2(2) – Acquisition, etc., for mining activities

New subsection 188.2(2) of the Act applies where a person acquires, imports or brings into a participating province property or a service for consumption, use or supply in the course of, or in connection with, mining activities. Subsection 188.2(2) provides that, to the extent that the acquisition, importation or bringing into the province of the property or service is for consumption, use or supply in the course of, or in connection with, mining activities, the person is deemed, for purposes of Part IX of the Act, to have acquired, imported or brought into the participating province, as the case may be, the property or service for consumption, use or supply otherwise than in the course of commercial activities of the person.

As a consequence, in determining an input tax credit of the person, an amount is not to be included in respect of tax that becomes payable, or that is paid without having become payable, in respect of the property or service to the extent that the person is deemed by subsection 188.2(2) to have acquired, imported or brought into the participating province the property or service for consumption, use or supply otherwise than in the course of commercial activities of the person. The application of subsection 188.2(2) is not dependent on whether or not the person receives a mining payment in respect of the mining activities.

However, subsection 188.2(2) does not apply to the acquisition, importation or bringing into a participating province of property or a service for consumption, use or supply in the course of, or in connection with, mining activities to the extent that those mining activities are described by subsection 188.2(5).

188.2(3) – Use, etc., for mining activities

New subsection 188.2(3) of the Act applies where a person consumes, uses or supplies property or a service in the course of, or in connection with, mining activities. Subsection 188.2(3) deems, for purposes of Part IX of the Act, the consumption, use or supply of the property or service to be otherwise than in the course of commercial activities of the person. The application of subsection 188.2(3) is not dependent on whether or not the person receives a mining payment in respect of the mining activities.

However, subsection 188.2(3) does not apply to the consumption, use or supply of the property or service in the course of, or in connection with, mining activities to the extent that those mining activities are described by subsection 188.2(5).

188.2(4) – Mining payment

New subsection 188.2(4) of the Act applies where a person receives a mining payment in respect of a mining activity (as those terms are defined in subsection 188.2(1)). Where subsection 188.2(4) applies, the rules in paragraphs 188.2(4)(a) to (c) apply to the provision of both the mining activities and the mining payment for the purposes of Part IX of the Act.

Paragraph 188.2(4)(a) deems the provision of the mining activities by the person not to be a supply. As a consequence, the person would not be required to charge any amount of tax that would otherwise be payable in respect of the mining activities and the other person would not be liable to pay any amount of tax that would otherwise be payable in respect of the mining activities received.

Paragraph 188.2(4)(b) deems the provision of the mining payment not to be a supply. As a consequence, the person would not be liable to pay any amount of tax that would otherwise be payable in respect of the mining payment received. As well, where another person provides the mining payment to the person, the other person would not be required to charge any amount of tax that would otherwise be payable in respect of the mining payment.

Paragraph 188.2(4)(c) applies where another person provides the mining payment to the person. It provides that, in determining an input tax credit of the other person, no amount is to be included in respect of tax that becomes payable, or that is paid without having become payable, by the other person in respect of any property or service acquired, imported or brought into a participating province for consumption, use or supply in the course of, or in connection with, the provision of the mining payment by the other person.

However, subsection 188.2(4) does not apply to the provision of mining activities, or the provision of a mining payment received as a consequence of performing those mining activities, to the extent that those mining activities are described by subsection 188.2(5).

188.2(5) – Exception

Subsection 188.2(5) of the Act provides an exception to the rules in subsections 188.2(2) to (4). Subsection 188.2(5) provides that subsections 188.2(2) to (4) do not apply in respect of a mining activity to the extent that the mining activity is performed by a particular person for another person if the conditions described in each of paragraphs 188.2(5)(a), (b) and (c) are met. However, as paragraphs 188.2(5)(b) and (c) are relevant only in certain situations, in many cases it is only necessary to consider paragraph 188.2(5)(a). Furthermore, it should be noted that if the mining activity is not provided to an actual person, such as it is provided to a cryptoasset network generally, subsection 188.2(5) would not apply in respect of the mining activity.

Paragraph 188.2(5)(a) requires that the identity of the other person is known to the particular person.

Paragraph 188.2(5)(b) applies only where the mining activity is in respect of a mining group that includes the particular person. In that situation, paragraph 188.2(5)(b) requires that the other person is not a mining group operator (as defined in subsection 188.2(1)) in respect of the mining group.

Paragraph 188.2(5)(c) would only need to be considered where the other person is a non-resident that is not dealing at arm’s length with the particular person. In that situation, paragraph 188.2(5)(c) requires that the other person use, consume or supply any property or service

received from the particular person as a result of the particular person's performance of the mining activities, in the course of making a supply to one or more persons (referred to here as "recipients"), where the conditions described by each of subparagraphs 188.2(5)(c)(i), (ii) and (iii) are met in respect of each recipient.

- Subparagraph 188.2(5)(c)(i) requires that the identity of each recipient is known to the other person.
- Subparagraph 188.2(5)(c)(ii) applies only if the mining activity is in respect of a mining group that includes the other person. In that situation, subparagraph 188.2(5)(c)(ii) requires that each recipient not be a mining group operator in respect of the mining group.
- Subparagraph 188.2(5)(c)(iii) requires that each recipient deal at arm's length with the other person.

For example, consider a case where

- a person that performs a mining activity ("the mining services provider") acquires electricity for consumption in the course of mining activities in respect of a cryptoasset;
- the mining services provider uses the electricity to make a supply of mining activities (maintaining and permitting access to the cryptoasset's publicly distributed ledger) to a corporation that administers the cryptoasset ("the administrator");
- the administrator compensates the mining services provider for the supply of mining activities with units of the cryptoasset;
- the cryptoasset is not a virtual payment instrument and a supply of the cryptoasset is normally a taxable supply for GST/HST purposes;
- the administrator uses telecommunication services that it acquired to provide the cryptoasset units to the mining services provider;
- the administrator is resident in Canada;
- the administrator is not a mining group operator in respect of a group of persons that includes the mining services provider; and
- the mining services provider knows that the administrator is the recipient of its supply of mining activities.

In this case, subsection 188.2(5) would apply to the mining activities. As a result, subsection 188.2(2) would not apply to deem the mining services provider to have acquired the electricity for consumption otherwise than in the course of commercial activities. This may allow the mining services provider to claim an input tax credit in respect of tax payable on the supply of the electricity (provided all the conditions for claiming an input tax credit are met).

In addition, paragraph 188.2(4)(a) would not apply to the mining services provider's provision of mining activities and paragraph 188.2(4)(b) would not apply to the administrator's provision of cryptoassets, meaning that they each would remain a taxable supply.

Finally, the administrator would not be precluded by paragraph 188.2(4)(c) from, in determining its input tax credits, including tax that became payable, or was paid without having become

payable, by it in respect of the telecommunication services that it acquired for use in the course of making the supply of the cryptoasset units.

Clause 119
Effect of tax adjustment note
ETA
232.01(5)

Existing subsection 232.01(5) of the Act provides rules that apply where the following circumstances exist:

- a participating employer of a pension plan issues a tax adjustment note to a pension entity of the pension plan (as those terms are defined in subsection 123(1) of the Act) under subsection 232.01(3) in respect of all or part of a specified resource (as defined in subsection 172.1(1) of the Act);
- a supply of the specified resource or part is deemed under subparagraph 172.1(5)(d)(i) or (5.1)(d)(i) to have been received by the pension entity; and
- in respect of the deemed supply, the pension entity is deemed to have paid tax under subparagraph 172.1(5)(d)(ii) or (5.1)(d)(ii).

Subsection 232.01(5) is amended in respect of the third circumstance. Specifically subsection 232.01(5) now also applies where the pension entity is deemed to have paid tax under new paragraph 172.1(8.01)(b) in respect of the deemed supply of the specified resource or part.

As a result, where a participating employer of a pension plan issues a tax adjustment note to a pension entity of the pension plan under subsection 232.01(3) in respect of all or part of a specified resource, a supply of the specified resource or part is deemed under subparagraph 172.1(5)(d)(i) or (5.1)(d)(i) to have been received by the pension entity and the pension entity is deemed to have paid tax under paragraph 172.1(8.01)(b) in respect of the deemed supply, the following rules now apply:

- Paragraph 232.01(5)(b) requires the pension entity to add, in determining its net tax for its reporting period that includes the day on which the tax adjustment note is issued, an amount in respect of all input tax credits claimable by the pension entity in respect of the tax that it is deemed to have paid under paragraph 172.1(8.01)(b) in respect of the deemed supply.
- If any part of the tax that the pension entity is deemed to have paid under paragraph 172.1(8.01)(b) in respect of the deemed supply is included in the determination of the pension rebate amount (as defined in subsection 261.01(1) of the Act) for a claim period (as defined in subsection 259(1) of the Act) of the pension entity, paragraphs 232.01(5)(c) and (d) require

- the pension entity to pay back an amount in respect of a rebate determined under subsection 261.01(2) for the claim period; and
- each qualifying employer (as defined in subsection 261.01(1)) of the pension plan to add, in determining its net tax for its reporting period that includes the day on which the tax adjustment note is issued, an amount in respect of any amount deducted by the qualifying employer from its net tax for a reporting period as a result of an election made under any of subsections 261.01(5), (6) or (9) for the claim period.

The amendment to subsection 232.01(5) is deemed to have come into force on August 10, 2022.

Clause 120
Effect of tax adjustment note
ETA
232.02(4)

Existing subsection 232.02(4) of the Act provides rules that apply where the following circumstances exist:

- a participating employer of a pension plan issues a tax adjustment note to a pension entity of the pension plan (as those terms are defined in subsection 123(1) of the Act) under subsection 232.02(2) in respect of employer resources (as defined in subsection 172.1(1) of the Act) that were consumed or used to make an actual supply to the pension entity;
- the pension entity is deemed under subparagraph 172.1(6)(d)(i) or (6.1)(d)(i) to have received a supply of each of those employer resources; and
- in respect of those deemed supplies, the pension entity is deemed to have paid tax under subparagraph 172.1(6)(d)(ii) or (6.1)(d)(ii).

Subsection 232.02(4) is amended in respect of the third circumstance. Specifically subsection 232.02(4) now also applies where the pension entity is deemed to have paid tax under new paragraph 172.1(8.01)(b) in respect of those deemed supplies of employer resources.

As a result, where a participating employer of a pension plan issues a tax adjustment note to a pension entity of the pension plan under subsection 232.02(2) in respect of employer resources, a supply of one of those employer resources is deemed under subparagraph 172.1(6)(d)(i) or (6.1)(d)(i) to have been received by the pension entity and the pension entity is deemed to have paid tax under paragraph 172.1(8.01)(b) in respect of the deemed supply, the following rules now apply:

- Paragraph 232.02(4)(b) requires the pension entity to add, in determining its net tax for its reporting period that includes the day on which the tax adjustment note is issued, an amount in respect of all input tax credits claimable by the pension entity in respect of the

tax that it is deemed to have paid under paragraph 172.1(8.01)(b) in respect of the deemed supply.

- If any part of the tax that the pension entity is deemed to have paid under paragraph 172.1(8.01)(b) in respect of the deemed supply is included in the determination of the pension rebate amount (as defined in subsection 261.01(1) of the Act) for a claim period (as defined in subsection 259(1) of the Act) of the pension entity, paragraphs 232.02(4)(c) and (d) require
    - the pension entity to pay back an amount in respect of a rebate determined under subsection 261.01(2) for the claim period; and
    - each qualifying employer (as defined in subsection 261.01(1)) of the pension plan to add, in determining its net tax for its reporting period that includes the day on which the tax adjustment note is issued, an amount in respect of any amount deducted by the qualifying employer from its net tax for a reporting period as a result of an election made under any of subsections 261.01(5), (6) or (9) for the claim period.

The amendment to subsection 232.02(4) is deemed to have come into force on August 10, 2022.

Clause 121
Rebate to pension plans
ETA
261.01

Existing section 261.01 of the Act provides for a GST/HST rebate for a pension entity of a pension plan (as those terms are defined in subsection 123(1) of the Act) and allows a pension entity of a pension plan and qualifying employers (as defined in subsection 261.01(1)) of the pension plan to make a joint election to transfer some or all of the pension entity's rebate entitlement to some or all of the qualifying employers. These qualifying employers would then be able to claim a deduction in respect of the transferred amount in determining their net tax.

Amendments to section 261.01 amend both the definition “pension rebate amount” in subsection 261.01(1) and subsection 261.01(3.1) and add new subsections 261.01(3.2) and (3.3). The amendments permit a pension entity of a pension plan to make a separate rebate claim — and, where such a claim is made, permit the pension entity and the qualifying employers of the pension plan to make a separate joint election — in respect of an amount of tax deemed to have been paid under new subparagraph 172.1(8.01)(b)(i) of the Act or deemed to have become payable under new section 172.11 of the Act.

The amendments to section 261.01 are deemed to have come into force on August 10, 2022.

Subclause 121(1)
Pension rebate amount
ETA
261.01(1)

A "pension rebate amount" of a pension entity of a pension plan for a claim period (as defined in subsection 259(1) of the Act) of the pension entity represents the amount of a rebate for the claim period that either the pension entity, if it is a "qualifying pension entity" (as defined in this subsection), may be entitled to claim under subsection 261.01(2) of the Act or in respect of which a deduction from net tax may be claimed by participating employers of the pension plan under any of subsections 261.01(5), (6) or (9).

The pension rebate amount of a pension entity of a pension plan for a claim period of the pension entity is the amount determined by the formula element A multiplied by element B, where element A represents a percentage determined in respect of the pension plan (being 33% in the case of a registered pension plan) and element B represents the total of the "eligible amounts" (as defined in subsection 261.01(1)) of the pension entity for the claim period that meet certain conditions. Element B is, in turn, the amount determined by the formula element G plus element H, where element G represents certain amounts of tax that became payable by the pension entity during the claim period and element H represents certain amounts of tax that were deemed to have been paid by the pension entity during the claim period under section 172.1 or 172.2 of the Act.

Subparagraph (i) of element H applies where an application for a rebate under subsection 261.01(2) is validly made (i.e., in accordance with subsection 261.01(3)) by the pension entity for the claim period. In that case, existing subparagraph (i) of element H provides that element H is the total of all amounts, each of which is an eligible amount of the pension entity for the claim period that is described in paragraph (b) of the definition "eligible amount" in this subsection (i.e., an amount of tax that the pension entity is deemed to have paid during the claim period under section 172.1 or 172.2) and that the pension entity elects to include in the determination of the pension rebate amount of the pension entity for the claim period under subsection 261.01(3.1).

Subparagraph (i) of element H of the definition "pension rebate amount" is amended to reflect that a rebate under subsection 261.01(2) for a claim period of a pension entity may now be claimed in a separate rebate application in accordance with new paragraph 261.01(3.2)(a), and not just in a regular application for a rebate that must comply with subsection 261.01(3.1). As a result, where an application for a rebate under subsection 261.01(3) is validly made for a claim period of a pension entity, subparagraph (i) of element H now provides that element H is the total of all amounts, each of which is an eligible amount of the pension entity for the claim period that is described in paragraph (b) of the definition "eligible amount" and is an amount

- that the pension entity elects to include in the determination of the pension rebate amount of the pension entity for the claim period under subsection 261.01(3.1); or
- in respect of which a portion of the rebate under subsection 261.01(2) for the claim period is claimed in a separate rebate application in accordance with paragraph 261.01(3.2)(a).

Subclause 121(2)
Application for rebate — pension rebate amount election
ETA
261.01(3.1)

Existing subsection 261.01(3.1) of the Act provides an application requirement in respect of a rebate under subsection 261.01(2). Specifically, subsection 261.01(3.1) requires that an application for a rebate under subsection 261.01(2) for a claim period of a pension entity indicate the total of all amounts, each of which is an eligible amount of the pension entity for the claim period that is described in paragraph (b) of the definition "eligible amount" in subsection 261.01(1) and that the pension entity elects to include in the determination of its pension rebate amount for the claim period. An eligible amount that is described in paragraph (b) of the definition "eligible amount" in subsection 261.01(1) is an amount of tax that the pension entity is deemed to have paid during the claim period under section 172.1 or 172.2 of the Act.

Subsection 261.01(3.1) is amended to provide that the total amount that a pension entity is required to indicate in an application for a rebate under subsection 261.01(2) for a claim period of the pension entity does not include an eligible amount for the claim period in respect of which a portion of the rebate for the claim period is instead claimed by the pension entity in accordance with new paragraph 261.01(3.2)(a). New paragraph 261.01(3.2)(a) permits the pension entity to make a separate rebate claim in respect of an amount of tax deemed to have been paid by the pension entity during the claim period under subparagraph 172.1(8.01)(b)(i) or in respect of an amount of tax deemed to have become payable by the pension entity during the claim period under section 172.11 of the Act.

Subclause 121(3)
Separate claims for a claim period
ETA
261.01(3.2) and (3.3)

261.01(3.2) – Separate claims for a claim period

New subsection 261.01(3.2) of the Act applies in respect of a claim period of a pension entity of a pension plan if an amount of tax is either deemed to have been paid by the pension entity under subparagraph 172.1(8.01)(b)(i) of the Act on a day in the claim period or deemed to have become payable by the pension entity under section 172.11 of the Act on a day in the claim period and if that amount of tax is an eligible amount of the pension entity for the claim period. Subsection 261.01(3.2) allows the pension entity to make a separate early rebate claim under

subsection 261.01(2) in respect of only that eligible amount instead of waiting until the end of the claim period and including the eligible amount in its calculation of its normal rebate claim under subsection 261.01(2) for the claim period. When the pension entity makes a separate rebate claim for a claim period in respect of the eligible amount, subsection 261.01(3.2) may also permit a separate election in respect of that eligible amount to be made under either subsection 261.01(5) or (6) by the pension entity and the qualifying employers of the pension plan.

More specifically, when subsection 261.01(3.2) applies in respect of an eligible amount of a pension entity for a claim period of the pension entity (i.e., the eligible amount is an amount of tax that is deemed to have been paid by a pension entity of the pension plan under subparagraph 172.1(8.01)(b)(i), or is deemed to have become payable by the pension entity under section 172.11, on a day in the claim period of the pension entity), the rules in paragraphs 261.01(3.2)(a) and (b) apply in respect of the eligible amount.

Paragraph 261.01(3.2)(a) permits the pension entity to make an application to claim a rebate under subsection 261.01(2) for the claim period in respect of only the portion of the rebate under subsection 261.01(2) for the claim period that is in respect of the excess pension rebate amount (as defined in new subsection 261.01(3.3)) for the claim period in respect of the eligible amount. The application in respect of only this portion would be made in a separate application from the pension entity's application under subsection 261.01(2) for the portion of the rebate under subsection 261.01(2) in respect of the remaining pension amount (as defined in subsection 261.01(3.3)) for the claim period. This right to claim multiple rebates for the claim period applies despite subsection 261.01(4), which would otherwise provide that only a single rebate may be claimed for the claim period.

Where the pension entity makes a separate application for the portion of the rebate under subsection 261.01(2) for the claim period of the pension entity that is in respect of the excess pension rebate amount for the claim period in respect of the eligible amount, the normal time limits contained in subsection 261.01(3) do not apply to the separate application and instead shorter time limits apply. Specifically, in order to be valid, the separate application must be filed by the pension entity after the beginning of the pension entity's fiscal year that includes the claim period and not later than

- if the pension entity is a registrant, the day on or before which the pension entity is required to file the return under Division V of Part IX of the Act for the claim period; or
- if the pension entity is not a registrant, the last day of the claim period.

Paragraph 261.01(3.2)(a) permits but does not require a separate application to be made for a rebate under subsection 261.01(2) in respect of the excess pension rebate amount for the claim period in respect of the eligible amount. The pension entity may either make a separate application for only the particular portion of the rebate that is in respect of that excess pension rebate amount or include the eligible amount in determining the remaining pension rebate amount for the claim period (i.e., include the amount in the pension entity's "normal" rebate

claim for the claim period). When it does the latter, the normal time limits in subsection 261.01(4) would apply in respect of an application for a rebate under subsection 261.01(2) in respect of the remaining pension rebate amount for the claim period.

Paragraph 261.01(3.2)(b) permits the pension entity of the pension plan and the qualifying employers of the pension plan to make a separate election under subsection 261.01(5) or (6) for the claim period that is in respect of the excess pension rebate amount for the claim period in respect of the eligible amount. This election under subsection 261.01(5) or (6) for the claim period in respect of that excess pension rebate amount is made separately from any election under that subsection in respect of the remaining pension rebate amount for the claim period.

However, paragraph 261.01(3.2)(b) applies only if pursuant to paragraph 261.01(3.2)(a) the pension entity makes a separate application for a rebate under subsection 261.01(2) that is in respect of the excess pension rebate amount for the claim period in respect of the eligible amount. As a result, paragraph 261.01(3.2)(b) applies only if the pension entity and one or more of the qualifying employers choose to "share" the relief provided by section 261.01 in respect of that excess pension rebate amount through a mix of a rebate claimed by the pension entity and net tax deductions by one or more qualifying employers. Paragraph 261.01(3.2)(b) would not apply if only the qualifying employers were to obtain relief in respect of that excess pension rebate amount under section 261.01. Paragraph 261.01(3.2)(b) also would not apply in respect of an election under subsection 261.01(9).

As well, to be valid, the separate election under subsection 261.01(5) or (6) that is permitted by paragraph 261.01(3.2)(b) in respect of that excess pension rebate amount must be filed at the same time as the separate application for a rebate under subsection 261.01(2) in respect of that excess pension rebate amount that is filed in accordance with the requirements set out in paragraph 261.01(3)(a). As a result, a separate election under subsection 261.01(5) or (6) that is permitted by paragraph 261.01(3.2)(b) in respect of that excess pension rebate amount must be filed within the time limits set out in paragraph 261.01(3.2)(a) that apply to the separate application for a rebate under subsection 261.01(2) in respect of the excess pension rebate amount.

261.01(3.3) – Definitions

New subsection 261.01(3.3) of the Act adds new definitions "excess pension rebate amount" and "remaining pension rebate amount" that are used in subsections 261.01(3.2) and (3.3).

New definition "excess pension rebate amount" is defined in respect of a particular amount of tax that is either deemed to have been paid under subparagraph 172.1(8.01)(b)(i) of the Act, or to have become payable under section 172.11 of the Act, by a pension entity during a claim period of the pension entity. An excess pension rebate amount in respect of the particular amount means the amount that would be the pension rebate amount of the pension entity for the claim period if the particular amount were the only eligible amount of the pension entity for the claim period.

New definition “remaining pension rebate amount” is defined in respect of a claim period of a pension entity. It is determined by subtracting, from the pension rebate amount of the pension entity for the claim period, the total of certain particular amounts. Each of these particular amounts is an excess pension rebate amount for the claim period, in respect of which a portion of the rebate under subsection 261.01(2) for the claim period is claimed by the pension entity in accordance with paragraph 261.01(3.2)(a) (i.e., as a separate claim).

Clause 122
Definitions
ETA
Sch. VI, Pt. VII, s. 1(1)

Part VII of Schedule VI to the Act zero-rates international freight and passenger transportation services.

Subsection 1(1) of Part VII of Schedule VI defines terms used in Part VII of Schedule VI. Subsection 123(1) of the Act, which contains definitions of terms used in Part IX of the Act and in Schedules V to X to the Act, defines the term “property” as not including money. Therefore, money does not constitute tangible personal property for the purposes of Part VII of Schedule VI.

Subsection 1(1) is amended to provide that the term “tangible personal property” includes money for the purposes of Part VII of Schedule VI.

This amendment is deemed to come into force on August 10, 2022. It also applies in respect of a supply made before that date unless the supplier charged or collected, before that date, any amount as or on account of tax under Part IX of the Act in respect of the supply.

Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations

Clause 123
Specific adjustments
Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations
46

Section 46 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* contains prescribed amounts — for a reporting period of a selected listed financial institution in a fiscal year that ends in a taxation year of the financial institution and for a participating province — for the purpose of the description of G in the formula in subsection 225.2(2) of the *Excise Tax Act* (the “Act”). These amounts are added or deducted, as the case may be, in determining the net tax of the selected listed financial institution for the reporting period. Each paragraph of section 46 describes a prescribed amount that is the positive or

negative amount determined by a formula. These prescribed amounts are contained in paragraphs 46(a) to (j).

Paragraph 46(a) is amended as a consequence of the enactment of new subsection 172.1(8.01) of the Act (see notes relating to this provision for more information). Specifically, element G_3 of the formula in paragraph 46(a) is amended. The amendments apply where the selected listed financial institution is a pension entity (as defined in subsection 123(1) of the Act).

Existing element G_3 of the formula in paragraph 46(a) is the total of certain amounts in respect of the federal component of tax. Clauses (C) and (D) of subparagraph (iii) of element G_3 describe amounts that the selected listed financial institution was required by paragraph 232.01(5)(c) or 232.02(4)(c) of the Act to pay to the Receiver General during the particular reporting period. Clause (C) is amended to reflect that paragraph 232.01(5)(c) of the Act may now apply in respect of a specified resource where tax in respect of a supply of the specified resource or part is deemed to have been paid under new paragraph 172.1(8.01)(b) of the Act by the financial institution. Similarly, clause (D) is amended to reflect that paragraph 232.02(4)(c) of the Act may now apply in respect of employer resources where tax in respect of supplies of the employer resources is deemed to have been paid under new paragraph 172.1(8.01)(b) of the Act by the financial institution.

The amendments to paragraph 46(a) apply in respect of any reporting period of a pension entity that ends after August 9, 2022.

Excise Act

Clause 124
Adjustment for beer – 2023
EA
170.2(2.1)

Section 170.2 of the *Excise Act* sets out the manner in which the rates of duty on beer or malt liquor are adjusted according to the Consumer Price Index for Canada on April 1 of each inflationary adjusted year (i.e., 2018 and every year after that).

New subsection 170.2(2.1) provides that, in respect of the inflationary adjusted year that is 2023, the rates of duty on beer or malt liquor are adjusted on April 1, 2023 by a factor of 1.02.

This amendment is deemed to have come into force on April 1, 2023.

Excise Act, 2001

Clause 125
Adjustment for spirits – 2023
EA, 2001
123.1(2.1)

Section 123.1 of the *Excise Act, 2001* (the "Act") sets out the manner in which the rates of duty applicable in respect of a litre of absolute ethyl alcohol or in respect of a litre of spirits are adjusted according to the Consumer Price Index for Canada on April 1 of each inflationary adjusted year (i.e., 2018 and every year after that).

New subsection 123.1(2.1) provides that, in respect of the inflationary adjusted year that is 2023, the rates of duty applicable in respect of a litre of absolute ethyl alcohol or in respect of a litre of spirits are adjusted on April 1, 2023 by a factor of 1.02.

This amendment is deemed to have come into force on April 1, 2023.

Clause 126
Adjustment for wine – 2023
EA, 2001
135.1(2.1)

Section 135.1 of the Act sets out the manner in which the rates of duty applicable in respect of a litre of wine are adjusted according to the Consumer Price Index for Canada on April 1 of each inflationary adjusted year (i.e., 2018 and every year after that).

New subsection 135.1(2.1) provides that, in respect of the inflationary adjusted year that is 2023, the rates of duty applicable in respect of a litre of wine are adjusted on April 1, 2023 by a factor of 1.02.

This amendment is deemed to have come into force on April 1, 2023.

Air Travellers Security Charge Act

Clause 127
Amount of charge
ATSCA
12

12(1) – Amount of charge if service acquired in Canada

Existing subsection 12(1) of the *Air Travellers Security Charge Act* (the "Act") establishes the amount of the charge that is payable on an air transportation service acquired in Canada. This includes air transportation services deemed under section 13 of the Act to have been acquired in Canada.

The subsection is amended to increase the charge for domestic air travel to $9.94 for one-way travel and to $19.87 for round-trip travel, for transborder air travel to $16.89 and for air travel from Canada to another international destination to $34.42. These rates are applicable to an air transportation service that includes a chargeable emplanement on or after May 1, 2024 unless

- all of the consideration is paid in respect of the service before that date; or
- a ticket is issued before that date and no consideration is paid or payable in respect of the service.

Amended paragraphs 12(1)(a) and (b) set out the new increased amount of the charge for domestic air travel. The amended paragraphs provide that the amount of the charge in respect of an air transportation service acquired in Canada that does not include transportation to a destination outside of Canada is:

- $9.46 for each chargeable emplanement included in the service, to a maximum of $18.92, if tax under subsection 165(1) of the *Excise Tax Act* (i.e., the goods and services tax (GST), or the federal component of the harmonized sales tax (HST)) is required to be paid in respect of the service; or
- $9.94 for each chargeable emplanement included in the service, to a maximum of $19.87, if tax under subsection 165(1) of the *Excise Tax Act* is not required to be paid in respect of the service.

Amended paragraphs 12(1)(c) and (d) set out the new increased amount of the charge for transborder air travel. The amended paragraphs provide that the amount of the charge in respect of an air transportation service acquired in Canada that includes transportation to a destination

outside Canada and does not include transportation to a destination outside the continental zone is:

- $16.08 for each chargeable emplanement included in the service, to a maximum of $32.16, if tax under subsection 165(1) of the *Excise Tax Act* (i.e., the GST, or the federal component of the HST) is required to be paid in respect of the service; or
- $16.89 for each chargeable emplanement included in the service, to a maximum of $33.77, if tax under subsection 165(1) of the *Excise Tax Act* is not required to be paid in respect of the service.

Amended paragraph 12(1)(e) sets out the new increased amount of the charge for air travel from Canada to another international destination. The amended paragraph provides that the amount of the charge in respect of an air transportation service acquired in Canada that includes transportation to a destination outside the continental zone is:

- $34.42, if the service includes transportation to a destination outside the continental zone.

12(2) – Amount of charge if service acquired outside Canada

Existing subsection 12(2) of the Act sets out the amount of the charge that is payable on an air transportation service acquired outside Canada.

The subsection is amended to increase the charge for transborder air travel to $16.89 and for air travel from Canada to another international destination to $34.42. These rates are applicable to an air transportation service that includes a chargeable emplanement on or after May 1, 2024, unless

- all of the consideration is paid in respect of the service before that date; or
- a ticket is issued before that date and no consideration is paid or payable in respect of the service.

Amended paragraphs 12(2)(a) and (b) set out the new increased amount of the charge for transborder air travel. The amended paragraphs provide that the amount of the charge in respect of an air transportation service acquired outside Canada that includes transportation to a destination outside Canada but within the continental zone is:

- $16.08 for each chargeable emplanement by an individual on an aircraft used to transport the individual to a destination outside Canada but within the continental zone, to a maximum of $32.16, if tax under subsection 165(1) of the *Excise Tax Act* (i.e., the GST, or the federal component of the HST) is required to be paid in respect of the service; or
- $16.89 for each chargeable emplanement by an individual on an aircraft used to transport the individual to a destination outside Canada but within the continental zone, to a maximum of $33.77, if tax under subsection 165(1) of the *Excise Tax Act* is not required to be paid in respect of the service.

Amended paragraph 12(2)(c) sets out the new increased amount of the charge for air travel from Canada to another international destination. The amended paragraph provides that the amount of the charge in respect of an air transportation service acquired outside Canada that includes transportation to a destination outside the continental zone is:

- $34.42, if the service includes transportation to a destination outside the continental zone.