Explanatory Notes Relating to the Income Tax Act and Other Legislation

Published by
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May 2026

Department of Finance Canada
Ministère des Finances Canada

Preface

These explanatory notes describe proposed amendments to the *Income Tax Act* and other legislation. 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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Income Tax Act (the Act or ITA)
6(1)(e.1)

Paragraph 6(1)(e.1) includes the amount of an employer's contributions to a group sickness or accident insurance plan in an employee's income for the year in which the contributions are made, except to the extent that paragraph 6(1)(f) applies to contributions made in respect of wage-loss replacement benefits.

Paragraph 6(1)(e.1) is amended to add a reference to plans that are administered by employee life and health trusts (ELHTs). This amendment simply clarifies that the provision of a group sickness or accident insurance plan through an ELHT does not change the character of plans described in paragraph 6(1)(e.1).

Clause 3

Expenses of railway employees

ITA
8(1)(e)

Paragraph 8(1)(e) permits a railway employee to deduct amounts expended for the purpose of earning income from employment in respect of meals and lodging under certain circumstances. The deduction of an amount under this provision is only allowed to the extent that the employee was not reimbursed and was not entitled to be reimbursed for the amount.

Paragraph 8(1)(e) is amended to provide that no deduction is allowed for an amount in respect of which the employee received a non-taxable allowance or is entitled to receive such an allowance.

Transport employee’s expenses

ITA
8(1)(g)

Paragraph 8(1)(g) permits a transport employee to deduct amounts expended for the purpose of earning income from employment in respect of meals, lodging and travel under certain

circumstances. The deduction of an amount under this provision is only allowed to the extent that the employee was not reimbursed and was not entitled to be reimbursed for the amount.

Paragraph 8(1)(g) is amended to provide that no deduction is allowed for an amount in respect of which the employee received a non-taxable allowance or is entitled to receive such an allowance.

Also, the French version of paragraph 8(1)(g) is amended to better align the English and French versions.

Clause 4

Refunds

ITA
12(1)(z.6)

Paragraph 12(1)(z.6) requires the inclusion in income of any amount received by the taxpayer in the year in respect of a refund of an amount that was deducted under paragraph 20(1)(vv) in computing income for any taxation year.

The French version of paragraph 12(1)(z.6) is amended to better align the English and French versions.

Definition of flipped property

ITA
12(13)(b)(i.1)

Subsection 12(13) of the Act provides the definition of "flipped property" of a taxpayer. Paragraph 12(13)(b) provides exclusions to the definition of "flipped property" in certain circumstances. For example, subparagraph 12(13)(b)(i) provides an exclusion for property owned by the taxpayer for less than 365 consequence days prior to its disposition where the disposition can reasonably be considered to occur due to, or in anticipation of, the death of the taxpayer or a person related to the taxpayer.

Under existing paragraph 12(13)(b), where the taxpayer is a trust, a deemed disposition by the taxpayer as a consequence of paragraph 104(4)(a) of the Act would be captured by the definition of "flipped property". A beneficiary under a trust is not related to the trust. The death of the beneficiary, whose death triggers the deemed disposition under paragraph 104(4)(a), is not the death of a person related to the taxpayer, and therefore does not trigger the exclusion provided in subparagraph 12(13)(b)(i).

Paragraph 12(13)(b) is amended to add an exclusion in new subparagraph 12(13)(b)(i.1) for a deemed disposition by a trust as a consequence of paragraph 104(4)(a).

This amendment applies in respect of dispositions that occur on or after January 1, 2023.

Clause 5

Rules applicable

ITA
13(7)

Subsection 13(7) provides rules relating to capital cost that apply where there has been a change of use of depreciable property, where depreciable property is used partly for gaining or producing income and partly for some other purpose, and where depreciable property is transferred between persons not dealing at arm's length.

New paragraph (d.1) provides a recapture rule that applies if there is a change in use (a "manufacturing building recapture event", as defined in subsection (21)) of a building in respect of which an amount was deducted under paragraph 20(1)(a) pursuant to subparagraph 1100(1)(a.1)(i) of the Income Tax Regulations (the "Regulations"). For more information, see the commentary on the definition "manufacturing building recapture event".

Specifically, if a taxpayer is subject to a manufacturing building recapture event in respect of a building, the taxpayer is deemed to have disposed of the building for proceeds equal to the amount that would have been the undepreciated capital cost (UCC) of the building, at that time, if the building had never qualified for immediate expensing under subparagraph 1100(1)(a.1)(i) of the Regulations.

The UCC amount is determined as if the building had never qualified for immediate expensing, the building were the only property included in the prescribed class that would have applied, and the taxpayer had deducted the maximum available capital cost allowance (CCA) in respect of that class for all prior taxation years.

The taxpayer is also deemed to have reacquired the building (in a separate prescribed class) at a cost equal to the original capital cost to the taxpayer and to have deducted an amount of CCA for prior taxation years so that the UCC of the new separate class is the same amount as the deemed proceeds of disposition.

If the building is later sold, the amount of any terminal loss, recapture, or capital gain would be based on the building's original capital cost to the taxpayer.

Example:
Company A acquires a building in 2026 for $1 million and uses more than 90% of the building's floor space for manufacturing, deducting the full capital cost of the building for the 2026 taxation year.

In 2029, Company A converts 50% of the building's floor space to office space, triggering a "manufacturing building recapture event".

Company A's deemed proceeds of disposition of the building is determined by the amount that would have been the UCC of the building if it never qualified for immediate expensing. Since the building was used for manufacturing in the years leading up to the recapture event, the maximum applicable CCA rates would have been: 15% in 2026 (assuming the building is Class 1 property that also qualified as reaccelerated investment incentive property) and 10% in 2027 and 2028.

This would result in $688,500 of recapture income under subsection 13(1) for Company A, and a remaining $688,500 UCC in a separate prescribed class for the building. The capital cost of the building would remain at $1 million, and the taxpayer would be deemed to have deducted $311,500 of CCA.

This amendment is deemed to have come into force on November 4, 2025.

Definitions

ITA
13(21)

"manufacturing building recapture event"

A "manufacturing building recapture event" is an event where a taxpayer has deducted an amount under paragraph 20(1)(a) pursuant to subparagraph 1100(1)(a.1)(i) of the Regulations in respect of a building (this would be an "eligible manufacturing building", which is defined in subsection 1104(2) of the Regulations), and in a taxation year that begins within 10 calendar years of the end of the taxation year in which the deduction was made, the taxpayer (or a lessee of the taxpayer) begins to use more than 10% of the building's floor space for one or more income-earning purposes other than the manufacturing or processing (as defined in subsection 1104(9) of the Regulations) in Canada of goods for sale or lease.

If the taxpayer begins to use the building for a non-income earning purpose, paragraph 13(7)(a) or (d) would apply instead.

If an eligible manufacturing building is transferred on a tax-deferred "rollover" basis under subsection 85(1) or (2), subsection 85(5) would apply to deem the transferee to have acquired the building for the same capital cost as the transferor, and the difference between the capital cost and the elected proceeds of disposition amount is deemed to have been deducted by the transferee in respect of the property. As a result, paragraph (a) of the "manufacturing building recapture event" definition would apply to the transferee in the same way as it would have applied to the transferor.

This definition is deemed to have come into force on November 4, 2025.

"undepreciated capital cost"

Subsection 13(21) contains a number of definitions, including the definition “undepreciated capital cost”, that apply for purposes of section 13. The definition “undepreciated capital cost” in that subsection also applies for purposes of the Act by operation of subsection 248(1).

The undepreciated capital cost to a taxpayer of depreciable property of a prescribed class as of any time means the amount determined by the formula in that definition.

The French version of the description of F in that formula is amended to better align the English and French versions.

Clause 6

Interest free or low interest loans

ITA
56(4.1)(c)

Subsection 56(4.1) applies in certain cases to attribute income from one individual (“the transferee”) to another individual (“the transferor”) with whom the transferee does not deal at arm's length.

The French version of paragraph 56(4.1)(c) is amended to better align the English and French versions.

Clause 7

Transfer of superannuation benefits

ITA
60(j)

Paragraph 60(j) allows a taxpayer a special deduction in respect of amounts paid, in a year or within 60 days after the end of the year, to registered pension plans and registered retirement savings plans. The deduction available to a taxpayer under this paragraph is generally limited to lump sum payments received by a taxpayer from a non-registered pension plan that are attributable to services rendered while the taxpayer or the taxpayer's spouse was not resident in Canada and included in computing the taxpayer's income.

Subparagraph 60(j)(i) is amended by dividing it into two clauses.

- Clause (A) (the traditional rule) refers to benefits included in income under subparagraph 56(1)(a)(i) from non-registered pension plans that are attributable to services rendered while the taxpayer or the taxpayer's spouse was not resident in Canada.
- Clause (B) is a new accommodation for benefits included in income under paragraph 6(1)(g) from pension plans that are “foreign plans” as defined in subsection 6804(1) of

the regulations, if contributions in respect of the benefit were included in the pension credit of the taxpayer or the taxpayer's spouse.

New clause (B) is intended to allow the paragraph 60(j) deduction for payments made to a taxpayer's RRSP or RRIF from a non-registered pension plan under which the taxpayer rendered services in Canada under a "foreign plan" that reported pension adjustments (and therefore reduced the RRSP contribution room) in respect of the plan member for the member's years of service under the foreign plan.

This amendment is deemed to have come into force on January 1, 2024.

Clause 8

Moving expenses of students

ITA
62(2)

Subsection 62(2) provides a deduction for the qualifying moving expenses of an individual who moves to or from Canada to pursue higher education.

The French version of subsection 62(2) is amended to better align the English and French versions.

Clause 9

Definitions

ITA
66.1(6)

"Canadian exploration expense"

The definition "Canadian exploration expense" (CEE) in subsection 66.1(6) defines oil, gas, mining, and Canadian renewable and conservation expenses that qualify for treatment as CEE, which expenses are fully deductible in the taxation year incurred or in a future taxation year.

Paragraph (f) of the definition includes in CEE certain expenses incurred for the purpose of determining the existence, location, extent or quality of a mineral resource in Canada, with various specific exclusions. Historically, the determination of a mineral resource's "quality" for CEE purposes was considered to relate to the resource's underlying physical characteristics. As a result, expenses for technical studies (which are typically undertaken to assess a mineral resource's engineering feasibility and economic viability as a mining project, rather than its underlying or inherent physical characteristics) have generally been viewed as being excluded from CEE. However, a recent decision of the Supreme Court of British Columbia held that the reference to "quality" under the provincial equivalent of the federal CEE definition could be

interpreted to include the economic viability or engineering characteristics, and not just the physical characteristics, of a mineral resource.

Paragraph (f) of the CEE definition is amended to clarify that expenses incurred for the purpose of determining the quality of a mineral resource in Canada must relate to the resource's underlying or inherent physical characteristics, and do not include expenses related to determining the economic viability of, or the engineering feasibility of extracting, the resource. A similar amendment is made to paragraph (a) of the CEE definition (which describes certain expenses relating to the oil and gas sector) to maintain consistency within the definition.

These amendments are deemed to have come into force on November 4, 2025.

Clause 10

Change of control

ITA
66.7(10)(j)(ii)(B)

Under subsection 66.7(10), a corporation is treated as a successor for the purposes of the successor rules in section 66.7 after an acquisition of control (or a change in the tax-exempt status) of the corporation.

The French version of clause 66.7(10)(j)(ii)(B) is amended to better align the English and French versions.

Clause 11

ITA
80(1)

"forgiven amount"

Losses and other tax attributes that arise from expenditures for which a taxpayer did not ultimately bear the cost are generally not recognized under the Act. To this end, sections 80 to 80.04 of the Act provide rules that apply when a commercial debt obligation is (or is deemed to be) settled or extinguished for less than its principal amount or the amount for which it was issued. These rules are generally referred to as the "debt forgiveness rules". When a commercial obligation is settled or extinguished, it gives rise to a "forgiven amount" as defined in subsection 80(1). A forgiven amount in respect of a commercial obligation issued by a debtor is required to be applied against certain tax attributes of the debtor, in a specified order, as provided in subsections 80(3) to (12).

In general, subsection 80(13) currently requires that one half (or where the debtor is a partnership or trust, the full amount) of any remaining unapplied portion of the forgiven amount be included in computing the debtor's income, unless it can be transferred to another taxpayer under section

80.04. Section 61.3 provides insolvent corporations (including corporate members of insolvent partnerships) with a deduction against certain amounts included in income due to the application of subsection 80(13). Section 61.4 provides corporations, trusts and non-resident persons that carry on business through a fixed place of business in Canada with a discretionary reserve against certain amounts included in income due to the application of subsection 80(13).

Subparagraph (i) of element B of the definition "forgiven amount" provides that a forgiven amount is nullified if the debtor is a bankrupt at that time. Consequently, section 80 does not apply to the settlement or extinguishment of commercial obligations of a bankrupt debtor. However, the deductibility of losses of a bankrupt corporation are restricted by paragraph 128(1)(g). The term “bankrupt” is defined in subsection 248(1) as having the meaning assigned by the *Bankruptcy and Insolvency Act*.

Some corporate taxpayers are entering into arrangements in which they are temporarily assigned into bankruptcy prior to settling or extinguishing a commercial obligation with a view to avoiding the application of both the debt forgiveness rules in section 80 and the loss restriction rule in paragraph 128(1)(g). As a result, there is no reduction in the taxpayer’s tax attributes and no income inclusion even though the bankruptcy is subsequently annulled. Similar arrangements are being entered into using partnerships. Although these arrangements can be challenged by the government based on existing rules in the Act, these challenges can be both time-consuming and costly. Accordingly, the Government is introducing this specific legislative measure.

Subparagraph (i) of element B of the definition “forgiven amount” is amended to restrict its application to an individual (other than a partnership or trust) who is a bankrupt at that time. Consequently, a bankrupt corporation, partnership or trust is no longer exempt from the debt forgiveness rules. However, relief from the debt forgiveness income inclusion rule is available to qualifying bankrupt corporations under sections 61.3 (including insolvent corporations that are members of partnerships subject to the debt forgiveness income inclusion rule) and 61.4. For more information, see the commentary to paragraph 128(1)(g).

This amendment applies in respect of bankruptcy proceedings of corporations that are commenced on or after April 16, 2024.

This amendment applies in respect of bankruptcy proceedings of partnerships and trusts that are commenced on or after August 12, 2024.

Clause 12

Continuing corporation

ITA
87(2)(j.6)

Paragraph 87(2)(j.6) provides continuity rules for the purposes of a number of provisions of the Act. For certain enumerated purposes, this paragraph provides that the corporation formed as the result of an amalgamation under subsection 87(1) is considered to be the same corporation as,

and a continuation of, each predecessor corporation. These continuity rules also apply in the context of a winding-up to which subsection 88(1) applies because of paragraph 88(1)(e.2).

Paragraph 87(2)(j.6) is amended to add references to new subsections 129(1.3) to 129(1.32). Briefly, under these new subsections, a dividend refund that a private corporation is otherwise entitled to receive in a taxation year under subsection 129(1) upon paying a taxable dividend to another affiliated corporation is suspended until a later taxation year if the affiliated corporation has a staggered year-end.

In general terms, this amendment ensures that new subsections 129(1.3) to 129(1.32) may continue to apply properly:

- where a private corporation (or a subject corporation within the meaning assigned by subsection 186(3)) that has a suspended dividend refund merges with another corporation to form an amalgamated corporation under subsection 87(1) or is wound-up into another corporation under subsection 88(1), or
- where an affiliated corporation that has received a taxable dividend from the private corporation or subject corporation merges with another corporation to form an amalgamated corporation under subsection 87(1) or is wound-up into another corporation under subsection 88(1).

This amendment applies to taxation years beginning on or after November 4, 2025.

Public corporation

ITA
87(2)(ii)

Where there has been an amalgamation between two or more predecessor corporations after 1971, to which subsection 87(1) applies, and any of the predecessor corporations was a "public corporation" (as defined in subsection 89(1)) immediately before the amalgamation, paragraph 87(2)(ii) provides that the new corporation is deemed to have been a public corporation at the commencement of its first taxation year.

The definition "public corporation" in subsection 89(1) applies in determining whether a corporation resident in Canada is a public corporation for the purposes of the Act. A corporation is a "public corporation" at a particular time if it satisfies one or more of the criteria outlined in paragraphs (a) to (c) of the definition.

By virtue of paragraph (c) of the definition, once a corporation becomes a public corporation, it continues to be a public corporation if it is resident in Canada unless it complies with the prescribed conditions (subsection 4800(2) of the Income Tax Regulations) and either the corporation elects in a prescribed manner not to be a public corporation or the Minister designates the corporation not to be a public corporation.

However, even where the corporation complies with the prescribed conditions and an election or designation is made not to be a public corporation, it might still be a public corporation if a class of shares of the corporation is listed on a designated stock exchange (as defined in subsection 248(1)) in Canada by virtue of paragraph (a) of the definition. This result is problematic for certain acquisitions of publicly listed corporations since delays in the delisting process on certain stock exchanges can uphold the acquired corporation's status as a public corporation. If the acquired corporation is amalgamated with a private corporation, paragraph 87(2)(ii) will deem the new amalgamated corporation to be a public corporation.

To address this concern, paragraph 87(2)(ii) is amended by introducing an exception to the deeming rule that applies if:

- after the last time a class of shares of the predecessor corporation (that was a public corporation) became listed on a designated stock exchange in Canada and before the amalgamation, an election or designation was made in respect of the corporation under paragraph (c) of the "public corporation" definition;
- immediately before the amalgamation, the predecessor corporation was a subsidiary wholly-owned corporation (as defined in subsection 248(1)) of another corporation (other than a public corporation) (the "Parent"); and
- the amalgamation was a vertical amalgamation between the Parent and the predecessor corporation.

If these conditions are satisfied, the new corporation formed on the amalgamation will not be deemed to be a public corporation by virtue of paragraph 87(2)(ii).

This amendment applies to amalgamations that occur after the day on which this Act receives royal assent.

Clause 13

Foreign accrual tax — DMTT regime

ITA
91(4.01)

Subsection 91(4) provides for a deduction in computing the income of a taxpayer resident in Canada. The deduction is available where the taxpayer has included an amount under subsection 91(1) in computing income in respect of a share of the capital stock of a controlled foreign affiliate of the taxpayer. As a consequence of a number of jurisdictions introducing a "domestic minimum top-up tax regime" (DMTT regime), as defined in subsection 5907(1) of the Regulations, new subsections 91(4.01) to (4.03) are introduced to supplement the existing definition "foreign accrual tax" in subsection 95(1). These new foreign accrual tax (FAT) rules ensure the appropriate amount of income or profits tax paid by a foreign affiliate of a taxpayer under such DMTT regimes is taken into account in determining the deduction available to the taxpayer under subsection 91(4) as FAT paid in respect of a foreign affiliate's foreign accrual property income (FAPI).

These new FAT rules treat taxes paid under a DMTT regime similarly to the treatment under the related amendments made to the surplus rules in section 5907 of the Regulations and the foreign tax credit rules in section 126. However, the FAT rules have been adapted in light of the differences between the treatment of income or profits tax paid by a foreign affiliate of a taxpayer for purposes of the FAT deduction and the treatment for purposes of an affiliate's surplus accounts and the computation of a taxpayer's foreign tax credit.

Under these new FAT rules, a portion of income or profits tax paid by a FAPI-generating affiliate (i.e., the particular affiliate), or its shareholder affiliate, under a DMTT regime is deductible as FAT under subsection 91(4) only if that portion satisfies a two-part test and the exception in subsection 91(4.03) does not apply to that portion.

The first component of the two-part test, the income or profits component, is met only if the tested portion of tax can reasonably be considered to be in respect of income or profits (as determined under the DMTT regime) of the particular affiliate or the shareholder affiliate, as the case may be. New subsection 91(4.02) contains an interpretation rule for purposes of this income or profits component that identifies the amount of tax payable under a DMTT regime that can reasonably be considered to be in respect of income or profits of a foreign affiliate.

The second component of the two-part test, being the activities component, is met only if the income or profits ascertained under the income or profits component of the test can reasonably be considered to be derived from an activity the income, profit or gains from which are included in the particular affiliate's FAPI that gives rise to the taxpayer's subsection 91(1) income inclusion.

The reference to "shareholder affiliate" in this subsection refers to the foreign affiliate described in subparagraph (a)(ii) of the definition "foreign accrual tax" in subsection 95(1).

For more information, see the commentary to new subsections 91(4.02) and (4.03), the definition "foreign accrual tax" in subsection 95(1) and the new definition "domestic minimum top-up tax regime" in subsection 5907(1) of the Regulations.

New subsection 91(4.01) is deemed to come into force on December 31, 2023.

Interpretation — DMTT regime

ITA
91(4.02)

New subsection 91(4.02) contains an interpretation rule that applies for the purpose of subsection 91(4.01). The main thrust of the rule is to determine whether tax payable by a foreign affiliate under a DMTT regime, as defined in subsection 5907(1) of the Regulations, can reasonably be considered to be in respect of income or profits (as determined under that regime) of the foreign affiliate. This subsection provides that the rule contained in new subsection 5907(1.192) of the Regulations, which applies for surplus purposes, is also applicable for the purpose of

determining the deduction available to a taxpayer under subsection 91(4) for foreign accrual tax paid in respect of a foreign affiliate's foreign accrual property income. For more information, see the commentary on subsection 91(4.01) and subsection 5907(1.192) of the Regulations.

New subsection 91(4.02) is deemed to come into force on December 31, 2023.

Exception — DMTT regime

ITA
91(4.03)

New subsection 91(4.03) prevents an amount paid in respect of an amount of foreign tax payable under a DMTT regime, as defined in subsection 5907(1) of the Regulations, from being taken into account in determining the deduction available to a taxpayer under subsection 91(4) for FAT in respect of a foreign affiliate's foreign accrual property income in certain circumstances. This exclusion applies if the amount of foreign tax payable under the regime was determined taking into account any taxes imposed under this Act (other than any tax imposed under Part XIII). This reflects that double taxation is already mitigated by virtue of the Canadian tax being taken into account under the DMTT regime, and is intended to prevent a circularity that can otherwise arise where a DMTT regime does not implement the exclusions for cross-border taxes that are described in the commentary to the definition "Qualified Domestic Minimum Top-up Tax" in *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)*, published by the Organisation for Economic Co-operation and Development (the "Model Rules").

This exclusion applies to both any amount of income or profits tax paid and any amount prescribed as FAT under paragraph (b) of the definition "foreign accrual tax" in subsection 95(1).

New subsection 91(4.03) is deemed to come into force on December 31, 2023.

Clause 14

Trust transfers

ITA
104(5.8)

Subsection 104(5.8) is a rule designed to prevent the avoidance of the 21-year deemed realization rule through trust-to-trust transfers that do not involve dispositions of property at fair market value.

The 21-year deemed realization rule is meant to prevent the indefinite deferral of the recognition of gains for tax purposes through the use of trusts. The rule encourages trusts to distribute their property to beneficiaries before the application of the 21-year rule. The income tax rules

generally allow such distributions to be made on a tax-free basis to beneficiaries who will realize gains on the property either on disposition or death.

Subsection 104(5.8) supports the 21-year deemed realization rule when the transferor trust transfers property to a transferee trust at a particular time in the circumstances described, by generally providing for the transferee trust to assume the next deemed disposition day of the transferor trust if that day is earlier than the transferee's next deemed disposition day.

Subsection 104(5.8) is amended to address indirect trust-to-trust transfers that avoid the 21-year deemed realization rule of a transferor trust through the transfer of property at a particular time to a beneficiary of the transferor trust in circumstances in which subsection 107(2) applies if, at that particular time, an interest in the beneficiary is held directly or indirectly by another trust. When the rule applies to such an indirect trust-to-trust transfer, the other trust assumes the 21-year deemed realization day of the transferor trust.

Example

A personal trust (Old Trust) has a 21-year anniversary date of March 1, 2026. Old Trust owns capital property. A holding corporation (Holdco) is one of the beneficiaries of Old Trust. Holdco is owned by another personal trust (New Trust) which has a 21-year anniversary of February 1, 2047.

On January 1, 2026, Old Trust transfers its capital property on a tax-deferred basis to its beneficiary, Holdco, pursuant to subsection 107(2).

The transfer of capital property from Old Trust to New Trust (through Holdco) can result in the deferral of the 21-year deemed realization rule by approximately 21 years. This is because the accrued gain on the property is reflected in the value of the Holdco shares held by New Trust the taxation of which may be deferred to February 1, 2047. Given that the indirect trust-to-trust transfer results in a deferral of the 21-year deemed realization rule (and potentially an indefinite deferral if these steps are repeated) in respect of the capital property, amended subsection 104(5.8) would apply to this indirect transfer so that the accrued gain on the property would be subject to tax in the hands of New Trust no later than March 1, 2026 (through a deemed disposition of the shares of Holdco by New Trust).

This amendment applies in respect of transfers of property that occur on or after November 4, 2025.

Clause 15

When trust is a unit trust

ITA
108(2)

Subsection 108(2) sets out the requirements for a trust to be a "unit trust".

Consequential to the revisions to the definition “qualified investment” in subsection 207.01(1), the reference in paragraph 108(2)(c) to property described in paragraph (b) of the previous qualified investment definition in section 204 is updated to refer to subparagraph (c)(i) of the definition in 207.01(1).

This amendment comes into force on January 1, 2027.

Clause 16

Annual vesting limit

ITA
110(1.31)

Subsection 110(1.31) applies to securities sold or issued by a qualifying person under a stock option agreement if the conditions in subsection 110(1.3) are met in respect of that agreement. It provides a formula for calculating the proportion of securities that are deemed to be non-qualified securities.

Subsection 110(1.31) is amended in two ways. First, the preamble is amended to clarify that the annual vesting limit formula, which deems a proportion of securities to be sold or issued under an agreement to be non-qualified securities, applies only in respect of those securities that could give rise to a deduction under paragraph 110(1)(d) (such securities being referred to as “specified securities” throughout the subsection). Other compensation arrangements that would *not* give rise to a paragraph 110(1)(d) deduction are not intended to count against the annual vesting limit.

Paragraph (b) under Variable D is amended to remove subparagraph (i), referring to securities that have been designated under subsection 110(1.4) as non-qualified securities (such securities cannot give rise to a deduction under paragraph 110(1)(d)). Similarly, clause (B) is removed. Narrowing the application of subsection (1.31) to only specified securities renders these two exclusions from paragraph (b) irrelevant.

Example

For example, assume Nathalie has entered into two equity-based compensation arrangements with her employer sequentially. The first agreement issues $400,000 worth of employee stock options (referring to the value of the underlying securities) and $250,000 worth of restricted share awards (meaning a right to acquire shares, on future vesting of the award, for a nil or nominal strike price). The second agreement issues $300,000 worth of employee stock options (referring to the value of the underlying securities) and $250,000 worth of restricted share awards. To demonstrate the effect of the amendment, assume all vest in the employee in the same year.

The table below illustrates how the formula in subsection 110(1.31) works pre- and post-amendment.

Pre-Amendment		
s. 110(1.31)	**Agreement #1**	**Agreement #2**
A	C + D - $200,000 = $450,000	C + D - $200,000 = $450,000
B	$650,000	$450,000
C	$650,000	$450,000
D	$0	$200,000
Result (A ÷ B)	$450,000/$650,000 = 69% of agreement #1 securities deemed non-qualified	$450,000/$450,000 = 100% of agreement #2 securities deemed non-qualified
Post-Amendment		
s. 110(1.31)	**Agreement #1**	**Agreement #2**
A	C + D - $200,000 = $200,000	C + D - $200,000 = $300,000
B	$400,000	$300,000
C	$400,000	$300,000
D	$0	$200,000
Result (A ÷ B)	$200,000/$400,000 = 50% of agreement #1 securities deemed non-qualified	$300,000/$300,000 = 100% of agreement #2 securities deemed non-qualified

In the absence of the amendment, the formula unintentionally counts Nathalie's restricted share awards against her annual vesting limit. The amendment ensures that the intended outcome, i.e., that $200,000 worth of stock options vesting in the same year are qualified (and therefore eligible for the employee stock option deduction), and that the remaining $500,000 worth of stock options are deemed non-qualified.

This amendment applies to agreements to sell or issue securities entered into after June 2021. However, it does not apply in respect of rights under an agreement to which subsection 7(1.4) of the Act applies that are new options in respect of which an exchanged option was issued before July 2021. This application date is retroactive to when the limitation in subsection 110(1.31) first began to apply.

Clause 17

Definitions

ITA
110.6(1)

"qualified small business corporation share"

This definition is relevant for the purposes of the capital gains exemption as only shares that constitute qualified small business corporation shares can qualify for the exemption.

The French version of paragraph (d) of the definition “action admissible de petite entreprise” is amended to better align the English and French versions.

Clause 18

Non-resident persons — 2010 Olympic and Paralympic Winter Games

ITA
115(2.3)

Subsection 115(2.3) exempts from taxable income amounts paid to certain non-resident persons in respect of activities performed in connection with the 2010 Olympic Winter Games or the 2010 Paralympic Winter Games.

As this provision is no longer relevant, it is repealed.

Clause 19

Annual adjustment

ITA
117.1(1)

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

The French version of subsection 117.1(1) is amended to better align the English and French versions.

Clause 20

Definitions

ITA
118(7)

“pension income”

Subparagraph (a)(iii.1) of the definition “*revenu de pension*” in the French version of the Act is amended to better align the French and the English versions of these subparagraphs. More specifically, a reference to “périodique” is deleted from the French version.

Clause 21

Definitions

ITA
120.4(1)

"excluded amount"

The definition "excluded amount" in subsection 120.4(1) describes income that is excluded from split income of an individual.

Paragraph (a) excludes from split income amounts derived from property that is inherited by an individual who has not attained the age of 24 years before the year from a parent, or from any other person if certain additional conditions are met.

Paragraph (b) excludes from split income amounts derived from property that is acquired by an individual under a transfer described in subsection 160(4). As a result, where a taxpayer transfers property to the taxpayer's spouse or common-law partner pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement and, at that time, the taxpayer and spouse or common law partner were separated and living apart as a result of the breakdown of their marriage or common-law partnership, the income derived by the spouse or common-law partner from the property will be an excluded amount in respect of the spouse or common-law partner.

Paragraphs (a) and (b) are amended to ensure that an amount of income or taxable capital gain or profit, as the case may be, continues to qualify as an "excluded amount" where a property described in paragraph (a) or (b) is substituted for another property.

These amendments are deemed to have come into force on August 12, 2024.

Clause 22

Definitions

ITA
122.1(1)

Subsection 122.1(1) sets out a number of definitions that apply for the purposes of the rules for SIFT trusts and, in some cases, SIFT partnerships.

"qualified REIT property"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the reference in paragraph (a) of the definition "qualified REIT property" to property described in paragraph (b) of the previous qualified investment definition in section 204 is updated to refer to subparagraph (c)(i) of the definition in 207.01(1).

This amendment comes into force on January 1, 2027.

"real estate investment trust"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the reference in paragraph (d) of the definition "real estate investment trust" to property described in paragraph (b) of the previous qualified investment definition in section 204 is updated to refer to subparagraph (c)(i) of the definition in 207.01(1).

This amendment comes into force on January 1, 2027.

Clause 23

Definitions

ITA
122.6

"eligible individual"

The definition "eligible individual" in section 122.6 describes certain requirements for an individual to be eligible for the Canada Child Benefit. Paragraph (e) of this definition describes certain residency requirements that must be met for an individual to be eligible for the Canada Child Benefit.

Subparagraph (e)(iv) of the definition currently provides that individuals are eligible to receive the Canada Child Benefit if they or their cohabiting spouse or common-law partner are determined to be a member of a class defined in the *Humanitarian Designated Classes Regulations* made under the *Immigration Act* (which was replaced with the *Immigration and Refugee Protection Act* effective June 28, 2002), where all other eligibility requirements are met. Individuals eligible under subparagraph (e)(iv) would also be considered a protected person within the meaning of the *Immigration and Refugee Protection Act* and thus, are already eligible to receive the Canada Child Benefit under subparagraph (e)(iii), where all other eligibility requirements are met.

As the *Humanitarian Designated Classes Regulations* are no longer relevant, subparagraph (e)(iv) is repealed.

This amendment comes into force on Royal Assent.

Clause 24

Deemed payment on account of tax

ITA
122.8(4)

Subsection 122.8(4) provides for the calculation of the Climate Action Incentive (also referred to as the Canada Carbon Rebate). The amount of an eligible individual's Canada Carbon Rebate payment is determined by the formula in this subsection and is deemed to be a payment of tax by the individual at the end of a taxation year. An eligible individual is required to file a return of income for a taxation year to receive a Canada Carbon Rebate payment with respect to that taxation year.

Subsection 122.8(4) is amended to provide a deadline of October 30, 2026, for an eligible individual to file their return of income for a taxation year to receive a Canada Carbon Rebate payment in respect of that year.

This amendment comes into force on November 4, 2025.

End of deemed payment

ITA
122.8(4.3)

New subsection 122.8(4.3) provides that an eligible individual has until October 30, 2026 to request an adjustment to a return of income that has been previously filed or make an application for a determination in respect of a taxation year in order for the Minister of National Revenue to determine or redetermine the individual's Canada Carbon Rebate payment.

In cases where an eligible individual requests an adjustment or makes an application for a determination in respect of a taxation year after the October 30, 2026 deadline, the Minister of National Revenue will not determine an amount of a deemed payment under subsection 122.8(4) on account of the eligible individual's tax payable under this Part for the taxation year to which the return of income or application for a determination relates.

For example, if Bill, having filed his return of income for the 2024 taxation year before October 30, 2026, makes an application for a determination on November 2, 2026, to redetermine his Canada Carbon Rebate payments for the 2024 taxation year, the Minister will not redetermine the amount of the Canada Carbon Rebate that Bill may receive for the 2024 taxation year because Bill's application for a determination was not made on or before October 30, 2026.

This amendment comes into force on November 4, 2025.

Clause 25

Training amount limit

ITA
122.91(2)(a)(i)

Subsection 122.91(2) provides for the calculation of an individual's "training amount limit" for a taxation year for the purposes of the Canada Training Credit in subsection (1).

Subparagraph (a)(i) provides that an individual's training amount limit increases every year by $250, provided certain conditions are met, including that the total of certain specified amounts be equal to or exceed $10,000 in respect of the preceding taxation year. These specified amounts include certain amounts payable to the individual under the *Employment Insurance Act*.

Consequential to the enactment of new subsections 22.1(1) and 152.041(1) of the *Employment Insurance Act* relating to a new adoption benefit, subparagraph (a)(i) is amended to include references to these new provisions in sub-subclause (A)(III)2 of the description of B, applicable on the same date that these new provisions come into force.

Clause 26

Definitions

ITA
122.92(1)

"qualifying relation"

Subsection 122.92(1) sets out definitions that apply for the purpose of the Multigenerational Home Renovation Tax Credit.

A "qualifying relation" of a qualifying individual for a renovation period taxation year means an individual who is:

- at least 18 years of age by the end of the year; and
- at any time in the year, a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew of the qualifying individual or the qualifying individual's cohabiting spouse or common-law partner.

The definition "qualifying relation" is amended to also include the spouses and common-law partners of the individuals who are captured by the existing definition.
Most spouses and common-law partners of the listed individuals were already included in "qualifying relation" by virtue of subsection 252(2) of the Act. However, as a result of this amendment, the spouses and common-law partners of the nieces and nephews of qualifying individuals (or of the cohabiting spouses or common-law partners of qualifying individuals) would be eligible to claim the credit.

This amendment applies to the 2023 and subsequent taxation years, in respect of work performed and paid for and/or goods acquired on or after January 1, 2023.

Clause 27

Former resident — reassessment period

ITA
126(2.211)

Subsection 126(2.21) provides limited credits against an individual's Canadian tax that arises in the year of the individual's departure from Canada, for post-departure foreign taxes.

New subsection 126(2.211) provides that the Minister may make any assessment, reassessment or additional assessment in respect of the year of the individual's departure from Canada to take into account a deduction under subsection (2.21). This new subsection will ensure that the Minister may take into account this deduction where the period of time between the individual's departure from Canada and the moment when the foreign taxes arise is such that the Minister would otherwise have been prevented from doing so because of subparagraph 152(4)(b)(i).

Exception — DMTT regime

ITA
126(4.14)

New subsection 126(4.14) is analogous to subsection 91(4.03), which denies the deduction with respect to foreign income or profits tax paid under a DMTT regime, as defined in subsection 126(7), in certain circumstances. For more information, please see the commentary to subsection 91(4.03).

The only notable distinction between the two rules is that the reference in subsection 126(4.14) to an “amount paid in respect of that particular amount” ensures that the exclusion applies to both an amount of foreign income or profits tax paid by a taxpayer and an amount paid by an agent on behalf of the taxpayer that is treated as equivalent to a payment by the taxpayer.

New subsection 126(4.14) is deemed to come into force on December 31, 2023.

Business-income tax — DMTT regime

ITA
126(4.7)

Subsection 126(7) contains a definition of the term “business-income tax” paid by a taxpayer for a taxation year for the purposes of determining the taxpayer's foreign tax credit (FTC). As a consequence of a number of jurisdictions introducing DMTT regime, as defined in subsection 126(7), new subsection 126(4.7), along with new subsections 126(4.14) and (4.8) and the new definitions in subsection 126(7), are introduced to ensure the appropriate amount of income or profits taxes paid by a taxpayer under such DMTT regimes is taken into account in determining the amount of business-income tax paid by a taxpayer. These new FTC rules are similar to the rules in new subsections 91(4.01) and (4.02) (which apply for the purposes of the definition “foreign accrual tax” in subsection 95(1)) and the various amendments to section 5907 of the Regulations (which apply for the foreign affiliate surplus rules). However, these new FTC rules have been adapted in light of the differences in the treatment of foreign taxes paid by a taxpayer

for purposes of the FTC rules compared to the treatment of foreign taxes paid by a foreign affiliate of a taxpayer under the foreign accrual tax and surplus rules.

This subsection, along with the interpretation rule introduced in new subsection 126(4.8), supplements the existing definition "business-income tax" in subsection 126(7) to ensure that foreign income or profits tax paid by the taxpayer under a DMTT regime is business-income tax for purposes of the FTC rules only if the portion of tax satisfies a two-part test.

The first component of the two-part test, the income or profits component, is met only if the tested portion of tax can reasonably be considered to be in respect of income or profits (as determined under the DMTT regime) of the taxpayer. New subsection 126(4.8) contains an interpretation rule for purposes of this income or profits component that identifies the amount of tax payable under a DMTT regime that can reasonably be considered to be in respect of income or profits of a taxpayer.

The second component of the two-part test, being the activities component, is met only if the income or profits ascertained under the income or profits component of the test can reasonably be considered to be derived from an activity the income, profit or gains from which would be included in the taxpayer's income from a business carried on in the business country. It is not necessary for the taxpayer to have included income in respect of that activity in its income from that business at the time that the tax is paid. Rather, there simply needs to be a reasonable expectation, at the time of the tax payment, that the activity giving rise to such income or profits (as determined under that DMTT regime) would generate income, profit or gains that would be taken into account in the taxpayer's income from that business.

For more information, see the commentary to new subsections 126(4.14) and (4.8), as well as the new definitions "DMTT group", "fiscal year" and "domestic minimum top-up tax regime" in subsection 126(7).

New subsection 126(4.7) is deemed to come into force on December 31, 2023.

Interpretation — DMTT regime

ITA
126(4.8)

New subsection 126(4.8) contains an interpretation rule that applies for the purposes of subsection 126(4.7) and new paragraph (j) of the definition "non-business-income tax" in subsection 126(7). The main thrust of the rule is to determine whether tax payable by a taxpayer under a DMTT regime, as defined in subsection (7), can reasonably be considered to be in respect of income or profits (determined under that regime) of the taxpayer. This rule is analogous to the rule in new subsection 5907(1.192) of the Regulations, which is used to determine the amount of tax payable under a DMTT regime for purposes of computing a foreign affiliate's surplus accounts. For more information, see the commentary on subsection 5907(1.192) of the Regulations.

Although a permanent establishment is not a separate legal entity from the taxpayer, a DMTT regime would generally treat it as a separate constituent entity from the taxpayer. The reference to “income or profits, as determined under that tax regime, of a taxpayer” in the preamble of this subsection, and the subsequent reference in variable B, is intended to refer to the income or profits of the taxpayer’s permanent establishment under the DMTT regime.

New subsection 126(4.8) is deemed to come into force on December 31, 2023.

Definitions

ITA
126(7)

“domestic minimum top-up tax regime”

Subsection 126(7) is amended to add the definition "domestic minimum top-up tax regime", consequential on the introduction of new rules applicable in determining a taxpayer’s foreign tax credit under new subsections 126(4.7) and (4.8) and paragraph (j) of the definition “non-business-income tax” in this subsection. The definition has the meaning assigned by subsection 5907(1) of the Regulations. For more information, see the commentary to the definition in subsection 5907(1) of the Regulations.

This definition is deemed to come into force on December 31, 2023.

“DMTT group”

Subsection 126(7) is amended to add the definition "DMTT group", consequential on the introduction of certain rules applicable in determining a taxpayer’s foreign tax credit under new subsections 126(4.7) and (4.8) and paragraph (j) of the definition “non-business-income tax” in this subsection. The definition has the meaning assigned by subsection 5907(1) of the Regulations. For more information, see the commentary to the definition in subsection 5907(1) of the Regulations.

This definition is deemed to come into force on December 31, 2023.

“fiscal year”

Subsection 126(7) is amended to add the definition "fiscal year", consequential on the introduction of new rules applicable in determining a taxpayer’s foreign tax credit under new subsections 126(4.7) and (4.8) and paragraph (j) of the definition “non-business-income tax” in this subsection. The definition has the meaning assigned by subsection 5907(1) of the Regulations. For more information, see the commentary to the definition in subsection 5907(1) of the Regulations.

This definition is deemed to come into force on December 31, 2023.

"non-business-income tax"

Subsection 126(7) defines the term "non-business-income tax" paid by a taxpayer for a taxation year for the purposes of determining the taxpayer's foreign tax credit and the amount of any deduction which may be available under subsection 20(12) in computing the taxpayer's income for a taxation year. As a consequence of a number of jurisdictions introducing a DMTT regime, as defined in subsection 126(7), paragraph (j) of the definition is introduced to ensure the appropriate amount of foreign taxes paid by a taxpayer under such DMTT regimes is taken into account in determining the taxpayer's non-business-income tax.

Specifically, paragraph (j) excludes any portion of tax paid by the taxpayer under a DMTT regime that cannot reasonably be considered to be in respect of the taxpayer's income or profits (as determined under that tax regime). New subsection 126(4.8) contains an interpretation rule for purposes of this test that identifies the amount of tax payable under a DMTT regime that can reasonably be considered to be in respect of income or profits (as determined under the tax regime) of the taxpayer. For more information, see the commentary to subsection 126(4.8).

These amendments are deemed to come into force on December 31, 2023.

Clause 28

Definitions

ITA
127(9)

"flow-through mining expenditure"

The definition "flow-through mining expenditure" in subsection 127(9) describes expenses that may qualify for the 15% investment tax credit in respect of specified surface "grass-roots" mineral exploration, often referred to as the "mineral exploration tax credit".

Paragraph (a) of the definition requires that the expense be a Canadian exploration expense (CEE) incurred in conducting mining exploration activity from or above the surface of the earth for the purpose of determining the existence, location, extent or quality of certain specified mineral resources.

Paragraph (a) is amended to clarify that eligible CEE be incurred for the purpose of determining the existence, location, extent or inherent natural qualities of a specified mineral resource. This amendment is consequential to the amendment to paragraph (f) of the definition "Canadian exploration expense" in subsection 66.1(6). See the commentary to that amendment for further information.

This amendment applies in respect of expenses renounced under a flow-through share agreement entered into on or after November 4, 2025.

“qualified expenditure”

The definition "qualified expenditure" in subsection 127(9) sets out the types of expenditures incurred by a taxpayer on scientific research and experimental development (SR&ED) that are eligible for an investment tax credit (ITC).

Currently, paragraphs (c) and (f) to (h) of this definition describe certain expenditures that are excluded from being qualified expenditures.

Consequential on the restoration of the eligibility of capital expenditures for the SR&ED program, a new paragraph (d) is added to this definition to exclude any amount that is a “clean economy expenditure” in respect of which a “clean economy tax credit” (both as defined in subsection 127.47(1)) was claimed by any person.

This ensures that if a clean economy tax credit is claimed in respect of an expenditure, the same expenditure would not be eligible for an SR&ED ITC.

This amendment is deemed to have come into force on May 4, 2026.

In addition, the French version of paragraph (c) of this definition is amended to correct a typographical error.

Clause 29

Definitions

ITA
127.44(1)

“*dual-use equipment”*

A portion of expenditures for "dual-use equipment" may qualify for CCUS tax credits under certain circumstances. To be included as dual-use equipment, equipment must be described in any of paragraphs (a) to (d) of the definition. In addition, in the case of property acquired before the first day of commercial operations of the CCUS project, the equipment must be verified by the Minister of Natural Resources as being dual-use equipment.

In general terms, to qualify as "dual-use equipment" under subparagraph (a)(i) of the definition, the equipment must generate electrical energy, heat energy or a combination of electrical or heat energy, if more than 50% of either the electrical energy or heat energy that is expected to be produced over the total CCUS project review period, based on the most recent project plan, is expected to directly support a qualified CCUS project or a qualified clean hydrogen project.

Subparagraph (a)(i) is first amended to improve readability and clarify, for greater certainty, that the 50% test may be met through a combination of direct support of a qualified CCUS project and direct support of a qualified clean hydrogen project.

This subparagraph is also amended to provide two exceptions to the requirement for carbon dioxide emitted by equipment using fossil fuels to be subject to capture by a qualified CCUS project. Currently, because generation equipment using any amount of fossil fuels would be ineligible if the associated emissions were not subject to capture by a qualified CCUS project, certain equipment that would need to emit a small amount of carbon dioxide for startup purposes (e.g., a hydrogen turbine that requires fossil fuels for startup) may not be eligible. Consequently, the first new exception provides that this equipment is eligible if fossil fuels are used for no more than 120 hours for each startup of the equipment. The second new exception provides that the equipment is eligible if fossil fuels are used as a fuel source, for any purpose, for no more than 72 hours per calendar year. Fossil fuels may also be used for a combination of the activities described in the two new exceptions.

These amendments apply on or after January 1, 2022.

"*qualified concrete storage process*"

A "qualified concrete storage process" is a process by which at least 60% of the carbon dioxide that is injected into concrete is expected to be mineralized and permanently stored in the concrete. This definition is relevant to the definition "eligible use". Pursuant to paragraph (b) of that definition, captured carbon is considered to have been used in an eligible use if it is used for producing concrete using a qualified concrete storage process.

This definition is amended to broaden the scope of storage processes that may qualify to include any process by which carbon dioxide is incorporated into concrete, as opposed to only by injection.

This amendment applies on or after January 1, 2022.

Special rules — adjustments

ITA
127.44(9)

New paragraph 127.44(9)(j) is a relieving rule. It provides that once captured carbon dioxide has been stored in "dedicated geological storage" (as defined in subsection 127.44(1)), if the carbon dioxide is released into the atmosphere for *bona fide* reasons outside the control of the taxpayer, this will not be considered to be an ineligible use of the captured carbon dioxide. Instead, it is deemed to be used in an eligible use at the time of the release and all subsequent times.

This amendment applies on or after January 1, 2022.

Clause 30

Definitions

ITA
127.45(1)

"*clean technology property*"

The definition "clean technology property" describes property for which the clean technology investment tax credit may be available. The definition contains four general requirements, which are set out in paragraphs (a) to (d).

Subparagraph (d)(ii), which describes certain stationary electricity storage equipment, is amended to clarify that it excludes stationary electricity storage equipment that is part of a system that uses any fossil fuel in operation.

This amendment applies in respect of property that is acquired and becomes available for use on or after May 4, 2026.

Special rules – adjustments

ITA
127.45(5)

Subsection 127.45(5) sets out a number of restrictions on clean technology investment tax credit claims.

Paragraph (a) lists various amounts in respect of which a clean technology investment tax credit would not be available.

Consequential on the restoration of the eligibility of capital expenditures for the scientific research and experimental development (SR&ED) program, new subparagraph (a)(ii.2) is added to ensure that the clean technology investment tax credit is not available for any "qualified expenditures" (as defined in subsection 127(9)) in respect of which an investment tax credit for SR&ED is deducted.

This amendment is deemed to have come into force on May 4, 2026.

Certain non-arm's length transfers

ITA
127.45(13) and (14)

Subsection 127.45(13) sets out the conditions for the deferral of recapture under subsection 127.45(14). These rules effectively permit the deferral of recapture that would otherwise be triggered under subsection 127.45(12) in connection with certain non-arm's-length transfers of clean technology property.

Under subsection 127.45(13), recapture of the clean technology investment tax credit will be deferred where clean technology property is disposed of by a taxable Canadian corporation to a related taxable Canadian corporation in circumstances where the property would be clean technology property to the purchaser (but for the requirement that the property not have been previously used under paragraph (b) of the definition of clean technology property).

Where the conditions in subsection (13) are met, subsection 127.45(14) makes subsection 127(34) applicable, with such modifications as the circumstances require. This effectively causes the transferee to be treated as if it had claimed the clean technology investment tax credit of the transferor in respect of the property, ensuring that the transferee could be subject to future recapture if it changes the use of the property to a non-clean technology use, or disposes of or exports the property.

These relieving provisions are intended to facilitate bona fide transfers of clean technology property within corporate groups.

Subsection 127.45(14) is amended (together with minor consequential amendments to subsection 127.45(13)) to achieve the results described above without making subsection 127(34) applicable. The amendments are intended to simplify interpretation and to ensure that subsection 127.45(14) continues to operate as intended to defer recapture of the clean technology investment tax credit on multiple transfers of clean technology property within a corporate group, while ensuring that the ultimate transferee within the group remains liable for recapture if an event described in paragraph 127.45(11)(c) occurs.

These amendments apply in respect of property that is acquired and becomes available for use on or after May 4, 2026.

Clause 31

ITA
127.48

Several changes are proposed for the clean hydrogen tax credit. In general terms, the amendments that apply broadly to the clean hydrogen tax credit are effective as of March 28, 2023, while the amendments that relate specifically to the expansion to methane pyrolysis as an eligible production pathway are effective as of December 16, 2024.

Definitions

ITA
127.48(1)

Subsection 127.48(1) provides various definitions relevant for the purpose of the clean hydrogen tax credit.

"actual hydrogen use percentage"

The "actual hydrogen use percentage" is relevant where a clean hydrogen project produces hydrogen from the pyrolysis of eligible hydrocarbons. In general terms, it represents the percentage of hydrogen produced by the project during the compliance period that is used for a "qualifying economic purpose". For more information on what constitutes a "qualifying economic purpose", see the commentary on that definition.

For this calculation, the quantity of "excluded hydrogen" is to be subtracted from both the numerator and the denominator to adjust for hydrogen produced by the project that should not be factored into the determination of the actual hydrogen use percentage. For more information, see the commentary on the "excluded hydrogen" definition.

The project's actual hydrogen use percentage is required to be included in the compliance report to be filed with the Minister of National Revenue and the Minister of Natural Resources in respect of the project's final operating year under paragraph 127.48(16)(d).

If, after the project's compliance period ends, the project's actual hydrogen use percentage is lower than 90%, then subsection 127.48(17.1) would apply to deem the project's average actual carbon intensity to be greater than 4.5, and the project could be liable for recovery tax under subsection 127.48(18). For more information, see the commentary on subsections 127.48(17.1) and (18).

This definition is deemed to have come into force on December 16, 2024.

"clean hydrogen project plan"

To qualify for the clean hydrogen tax credit, a "clean hydrogen project plan" must be filed with the Minister of Natural Resources for confirmation, in the form and manner determined by the Minister of Natural Resources.

New paragraph (c.1) is added to this definition to describe the additional requirements relevant for a clean hydrogen project that produces hydrogen from the pyrolysis of eligible hydrocarbons (i.e., methane pyrolysis). Specifically, two new requirements are added for pyrolysis projects: the plan must set out the project's "expected hydrogen production" and include an "end-use plan" in respect of the project. For more information, see the commentary on those two new definitions.

This amendment is deemed to have come into force on December 16, 2024.

"combustion"

It is possible for solid carbon to be used in a reaction that produces emissions of specified greenhouse gases but is not typically considered combustion.

The definition "combustion" is added to ensure that when solid carbon is used in these reactions, it receives the same treatment as regular combustion of solid carbon (for example, burning the

solid carbon for energy) for the purposes of determining the carbon intensity of a clean hydrogen project and any associated clean hydrogen tax credit.

This definition is deemed to have come into force on December 16, 2024.

"dual-use electricity and heat equipment"

The definition "dual-use electricity and heat equipment" describes certain equipment that is part of a clean hydrogen project and supports the production of hydrogen from eligible hydrocarbons.

Paragraph (a) of the definition describes equipment that generates electrical energy, heat energy or a combination of electrical and heat energy, if more than 50% of either the electrical energy or heat energy that is expected to be produced over the first 20 years of the project's operations, based on the most recent clean hydrogen project plan, is expected to support a qualified CCUS project or qualified clean hydrogen project.

Paragraph (a) is first amended to clarify, for greater certainty, that this equipment would meet this requirement if more than 50% of either the electrical energy or heat energy to be produced by the equipment is expected to support one or a combination of a qualified CCUS project and a qualified clean hydrogen project.

This paragraph is also amended to provide two exceptions to the requirement for equipment using fossil fuels to be subject to a CCUS process. Currently, because generation equipment using any amount of fossil fuels would be ineligible if no CCUS process is applied, certain equipment that would need to emit a small amount of carbon dioxide for startup purposes (e.g., a hydrogen turbine that requires fossil fuels for startup) may not be eligible. Consequently, the first new exception provides that this equipment is eligible if fossil fuels are used for no more than 120 hours for each startup of the equipment. The second new exception provides that the equipment is eligible if fossil fuels are used as a fuel source, for any purpose, for no more than 72 hours per calendar year. Fossil fuels may also be used for a combination of the activities described in the two new exceptions.

This amendment is deemed to have come into force on March 28, 2023.

"dual-use hydrogen and ammonia equipment"

The "dual-use hydrogen and ammonia equipment" definition is repealed and replaced by the new definition "oxygen and nitrogen production equipment". For more information, see the commentary on the "oxygen and nitrogen production equipment" definition.

This amendment is deemed to have come into force on March 28, 2023.

"eligible clean hydrogen property"

"Eligible clean hydrogen property" means property, other than "excluded property", that meets all three conditions in paragraphs (a) to (c).

Paragraph (c) lists six categories of eligible property in subparagraphs (i) to (vi).

Subparagraphs (c)(i) and (ii) are amended to clarify that the property described in these two subparagraphs must be used to produce all or substantially all hydrogen. For example, certain equipment would be ineligible if it is used to produce oxygen that contributes to a substantial portion (generally, more than 10%) of the total revenues generated by a project.

In the case of property that is used to produce hydrogen from eligible hydrocarbons (described in subparagraph (ii)), any captured carbon that is also produced by that property may be disregarded in determining whether the property was used to produce all or substantially all hydrogen.

These clarifications are intended to prevent projects from "oversizing" certain equipment for the purpose of producing more co-products, especially where hydrogen production levels do not have a corresponding increase. Captured carbon does not raise a similar concern because the amount of carbon dioxide generated by a project is directly related to the amount of hydrogen produced by a project and capturing the carbon dioxide is necessary for the CCUS process to reduce emissions.

Example

A clean hydrogen project includes certain equipment that is expected to be used to produce hydrogen from eligible hydrocarbons, but will also produce oxygen using an air separation unit and captured carbon as co-products. The project is expected to generate $10 million in total revenue for its first operating year.

If the revenue from selling hydrogen is expected to be all or substantially all of the total revenues (generally, $9 million, or 90% of $10 million), then the equipment could qualify as "eligible clean hydrogen property" under subparagraph (c)(ii) of the definition.

If the revenue from selling the oxygen co-product is expected to be more than $1 million (10% of $10 million), then the air separation unit would generally not qualify under subparagraph (c)(ii).

If the project is also expected to sell captured carbon, the revenue from those sales may be disregarded in determining whether the equipment is expected to produce all or substantially all hydrogen.

Subparagraph (c)(ii) is also amended to add a reference to partial oxidation reactors, clarifying the intent for this equipment to be eligible.

Consequential on the introduction of the definition "oxygen and nitrogen production equipment" and the repeal of the definition "dual-use hydrogen and ammonia equipment", clause (c)(iii)(C) is amended to refer to the new defined term.

These amendments are deemed to have come into force on March 28, 2023.

Further, as part of the introduction of the pyrolysis pathway, subparagraph (c)(ii) is amended to clarify that property used to produce hydrogen from eligible hydrocarbons using a pyrolysis process would not be included in this subparagraph and would be included under new subparagraph (c)(ii.1) instead.

New subparagraph (c)(ii.1) describes property used to produce all or substantially all hydrogen from the pyrolysis of eligible hydrocarbons, including property that is part of a pyrolysis reactor system, solid carbon separation equipment, and additional specified equipment.

Similar to subparagraph (ii), whether the equipment is used to produce all or substantially all hydrogen is determined without reference to any captured carbon or solid carbon that is produced. Solid carbon could have substantial economic value, but because it is a necessary product of hydrogen production under the pyrolysis pathway, solid carbon production is disregarded in determining whether a piece of equipment is used to produce all or substantially all hydrogen.

Amendments in respect of the pyrolysis pathway are deemed to have come into force on December 16, 2024.

"eligible pathway"

Producing hydrogen from an "eligible pathway" is a required condition for a clean hydrogen project to become a "qualified clean hydrogen project".

New paragraph (c) is added to this definition to include the production of hydrogen from the pyrolysis of eligible hydrocarbons (i.e., methane pyrolysis) as an eligible pathway.

This amendment is deemed to have come into force on December 16, 2024.

"eligible power purchase agreement"

An "eligible power purchase agreement" means an agreement or other arrangement in writing that meets the conditions described in paragraphs (a) to (c).

Subparagraph (a)(ii) requires that the source of the electricity be located:

- in the same province or territory as the clean hydrogen project of the taxpayer;
- in the exclusive economic zone of Canada; or
- in a neighbouring province, if the taxpayer has arranged for the necessary interprovincial transmission.

Clauses (a)(ii)(A) and (B) are amended to allow for the eligibility of power purchase agreements that provide electricity to a clean hydrogen project by direct connection, without necessarily being connected to the electricity grid of the province or territory in which the project is located.

Paragraph (b) requires the agreement to grant the taxpayer the sole and exclusive right to the environmental attributes associated with the purchased electricity. Under paragraph (b), an agreement will not qualify as an eligible power purchase agreement if the producer of the electricity sells the attributes of that electricity to another purchaser in a separate arrangement.

Paragraph (b) is amended to clarify that environmental attribute certificates issued through a provincially designated authority (e.g., the Midwest Renewable Energy Tracking System for Clean Energy Credits in Ontario), including renewable energy certificates, may be used as evidence of the taxpayer's sole and exclusive right to the environmental attributes associated with the electricity purchased by the taxpayer. For greater certainty, this clarification does not preclude other forms of evidence, such as the power purchase agreement itself.

These amendments are deemed to have come into force on March 28, 2023.

New subsection 127.48(6.1) provides additional rules with respect to the retirement of environmental attribute certificates. For more information, see the commentary on subsection 127.48(6.1).

"eligible renewable hydrocarbon"

"Eligible renewable hydrocarbon" refers to a substance that meets the conditions in each of paragraphs (a) to (f) in respect of a taxpayer.

Paragraph (e) applies if the renewable hydrocarbons are acquired by the taxpayer under an agreement with another party. In such a case, the agreement must grant the taxpayer the sole and exclusive right to the environmental attributes associated with the substance. Similar to eligible power purchase agreements, this rule seeks to prevent the producers of renewable hydrocarbons from selling the environmental attributes associated with the renewable source to another purchaser in a separate arrangement.

Paragraph (e) is amended to clarify that environmental attribute certificates issued through a provincially designated authority may be used as evidence of the taxpayer's sole and exclusive right to the environmental attributes associated with the substance.

This amendment is deemed to have come into force on March 28, 2023.

New subsection 127.48(6.1) provides additional rules with respect to the retirement of environmental attribute certificates. For more information, see the commentary on subsection 127.48(6.1).

"end-use plan"

An "end-use plan" is relevant where a clean hydrogen project is intended to produce hydrogen from the pyrolysis of eligible hydrocarbons. In general terms, it is intended to ensure that the solid carbon produced by such a project is not converted to carbon dioxide that is subsequently

released into the atmosphere, and that the hydrogen produced is used for an economic purpose and is not wasted. As a result, taxpayers are required to set out the end use of their solid carbon and hydrogen through an "end-use plan" to be included as part of the project's clean hydrogen project plan.

Paragraph (a) requires the taxpayer to set out the expected end uses of any solid carbon produced for the first seven years of hydrogen production (the "end-use period"), including the quantity and percentage share of solid carbon that is expected to be:

- treated as a waste product and disposed of in a manner that would not lead to any of the carbon being released into the atmosphere (e.g., permanently disposed of in a landfill);
- used for combustion or incorporated into a product intended for combustion (e.g., transformed into coke for an industrial coke furnace);
- used in or incorporated into a product that is not intended for combustion (e.g., incorporated into tires for automobiles); and
- used for any other purpose.

If any solid carbon is expected to be sold during the seven-year "end-use period", paragraph (b) requires the inclusion of copies of any purchase agreements or other arrangements in writing supporting that sale. These agreements or arrangements must set out the expected uses of the solid carbon and allow the taxpayer to have access to information in relation to its actual use by the purchaser.

In respect of hydrogen produced by the project, paragraph (c) requires the end-use plan to include the project's "expected hydrogen use percentage", which generally involves the proportion of total hydrogen produced that is used for an economic purpose (e.g., sold to market or used to produce ammonia).

Paragraph (d) requires the end-use plan to include copies of any purchase agreements or other arrangements in writing supporting the sale of the hydrogen expected to be produced during the project's compliance period.

Finally, paragraph (e) requires the inclusion of any additional information required by guidelines published by the Minister of Natural Resources.

This definition is deemed to have come into force on December 16, 2024.

"excluded hydrogen"

The "excluded hydrogen" definition describes certain hydrogen in respect of a clean hydrogen project that should not be factored into the calculation of the project's expected hydrogen use percentage or actual hydrogen use percentage.

Specifically, hydrogen that is (or is expected to be) vented or flared for the purpose of safety or system integrity is always excluded from these calculations under paragraph (a).

In addition, under paragraph (b), where there is a *bona fide* termination of a hydrogen sale agreement or a reasonably unforeseen change to an existing use of a project's hydrogen, any hydrogen that is vented or flared may be excluded for up to a cumulative maximum period of 180 days during the project's compliance period. Examples of situations where this exclusion could become temporarily available include when a genuine purchaser of a project's hydrogen becomes insolvent or when the project's hydrogen-consuming equipment breaks down.

Although the project may be able to vent or flare hydrogen in the situations described above without affecting its hydrogen use percentages, the effects of the venting and flaring would factor into the project's carbon intensity calculation.

For more information, see the commentary on the "expected hydrogen use percentage" and "actual hydrogen use percentage" definitions.

This definition is deemed to have come into force on December 16, 2024.

"excluded property"

"Excluded property" describes property that is ineligible for the clean hydrogen tax credit.

To clarify that most types of electricity and heat generation equipment used in the production of hydrogen through electrolysis of water were not intended to be eligible for the clean hydrogen tax credit, this equipment is added to the list of excluded property as new paragraph (a.1). Depending on the nature of the electricity and heat generation equipment, it could be eligible for the clean technology investment tax credit or the clean electricity investment tax credit instead.

An exception to this exclusion would be heat generation equipment that is physically and functionally integrated with high-temperature electrolysis equipment.

This amendment is deemed to have come into force on March 28, 2023.

As part of the introduction of methane pyrolysis as an eligible pathway, new paragraph (a.2) is added to exclude certain property that may be used in the pyrolysis of eligible hydrocarbons, including property acquired before December 16, 2024 and equipment downstream of the point where hydrogen and solid carbon are separated (specifically, equipment used for the collection, processing, or storage of solid carbon and equipment used for the off-site transmission, transportation, or distribution of solid carbon).

This amendment is deemed to have come into force on December 16, 2024.

"expected hydrogen production"

The "expected hydrogen production" definition describes a clean hydrogen project's expected gross average annual hydrogen production, in tonnes, over the first 20 years of the project's operations.

This definition is relevant for the purpose of the limit on the capital cost of the project's pyrolysis reactor system. For more information, see the commentary on subsection 127.48(10.1).

This definition is deemed to have come into force on December 16, 2024.

"expected hydrogen use percentage"

The "expected hydrogen use percentage" definition is relevant where a clean hydrogen project is intended to produce hydrogen from the pyrolysis of eligible hydrocarbons. In general terms, it represents the percentage of the total hydrogen expected to be produced by such a project during the compliance period that is expected to be used for a "qualifying economic purpose". For more information on what constitutes a "qualifying economic purpose", see the commentary on that definition.

The quantity of hydrogen expected to be used for a qualifying economic purpose is also required to be evidenced in the project's clean hydrogen project plan, more specifically by the front-end engineering design study (for hydrogen to be consumed internally) and agreements or other arrangements in writing in the end-use plan (for hydrogen to be sold).

For the calculation, the quantity of "excluded hydrogen" is to be subtracted from both the numerator and the denominator. For more information, see the commentary on the "excluded hydrogen" definition.

This percentage is mainly relevant for the determination of the project's eligibility under new paragraph (d) of the "qualified clean hydrogen project" definition. If the project's expected hydrogen use percentage is below 90%, then the project cannot be confirmed as a qualified clean hydrogen project.

If the expected hydrogen use percentage of a taxpayer's project (as indicated in a revised clean hydrogen project plan) falls below the 90% threshold after the project is confirmed but before its compliance period begins, the project would no longer meet the requirements to be a qualified clean hydrogen project and recovery tax would apply on credit amounts previously deducted. For more information, see the commentary on subsections 127.48(8) and (18).

This definition is deemed to have come into force on December 16, 2024.

"Fuel LCA Model"

The "Fuel LCA Model" is the Government of Canada's Fuel Life Cycle Assessment Model. It is a tool that is published and periodically updated by the Minister of the Environment.

This definition is amended to ensure that taxpayers use a version of the Fuel LCA Model that is listed in the latest *Clean Hydrogen Investment Tax Credit – Carbon Intensity Modelling Guidance Document*. This would prevent the use of a version of the Fuel LCA Model if, for example, Environment and Climate Change Canada has determined it contains one or more errors.

For greater certainty, if a taxpayer has already received confirmation from the Minister of Natural Resources that the project is a qualified clean hydrogen project, but the version of the Fuel LCA Model that was used to calculate the project's expected carbon intensity has subsequently been removed from the *Clean Hydrogen Investment Tax Credit – Carbon Intensity Modelling Guidance Document*, the taxpayer may continue to use the same version of the Fuel LCA Model for calculating actual carbon intensity.

This amendment is deemed to have come into force on March 28, 2023.

"ineligible use"

This definition is repealed as it only appears once in paragraph 127.48(6)(d) and the term is already defined in subsection 127.44(1). For more information, see the commentary on subsection 127.48(6).

This amendment is deemed to have come into force on March 28, 2023.

"operating year"

A clean hydrogen project's "average actual carbon intensity" is calculated by reference to the "compliance period" of a project, which is in turn determined by reference to its "operating year". An "operating year" in the context of a clean hydrogen project means a cumulative 365-day period during which the project operates. As a result, any time during which the project is not operating is disregarded in the calculation of a project's operating year.

The "operating year" definition is amended to clarify that a project's operating year and compliance period do not run during each day that the project is not producing hydrogen.

For greater certainty, the operating year would be paused for each full day that hydrogen is not produced. For example, if hydrogen production is paused from midday December 1 until midday December 4, there are two days of shutdown (December 2 and 3) and the project would have two days of operations (December 1 and 4 would both count towards the operating year).

This amendment is deemed to have come into force on March 28, 2023.

"oxygen and nitrogen production equipment"

The new definition "oxygen and nitrogen production equipment" replaces the existing definition "dual-use hydrogen and ammonia equipment".

This new defined term expands the equipment previously described under "dual-use hydrogen and ammonia equipment" to include oxygen and nitrogen production equipment that may be used in hydrogen or ammonia production, as well as processes that indirectly support hydrogen or ammonia production, specifically the on-site production of electricity or heat or a CCUS process.

To qualify under this definition, the equipment must be multi-use, in that the oxygen or nitrogen produced must be used all or substantially all in any combination of at least two of the processes listed in subparagraphs (b)(i) to (iv).

For example, if the project does not use any nitrogen, all or substantially all of the oxygen produced must be used in at least two listed processes to qualify under this definition. If the oxygen produced in this scenario is used solely in the production of hydrogen from eligible hydrocarbons, then the equipment would not be "oxygen and nitrogen production equipment", but it could still qualify as "eligible clean hydrogen property" under subparagraph (c)(ii) of that definition.

Similarly, if the project does not use any oxygen produced by this equipment, then all or substantially all of the nitrogen produced would need to be used in at least two listed processes to qualify under this definition. If the nitrogen produced is used solely for ammonia production, then the equipment would fall under paragraph (c) of the "clean ammonia equipment" definition.

If the project uses both oxygen and nitrogen, then all or substantially all of either the oxygen or the nitrogen produced must be used in at least two of the listed processes.

This amendment is deemed to have come into force on March 28, 2023.

"pyrolysis reactor system"

A "pyrolysis reactor system" may be a significant part of a clean hydrogen project that produces hydrogen from the pyrolysis of eligible hydrocarbons.

To better target the clean hydrogen tax credit towards clean hydrogen production rather than the production of solid carbon, the capital cost amount that would be eligible for the credit of the "pyrolysis reactor system" of a clean hydrogen project is limited to $3,000 per tonne of the project's expected hydrogen production. This limitation is intended to avoid unduly subsidizing projects that make large investments in a pyrolysis reactor system that may produce significant amounts of high-grade solid carbon but do not result in a commensurate amount of clean hydrogen production.

The definition "pyrolysis reactor system" describes the property that would be subject to this limit. Specifically, the system consists of one or more pyrolysis reactors, any equipment that performs the function of a pyrolysis reactor (e.g., off-the-shelf components combined together to perform the function of a reactor) and any equipment that is physically and functionally integrated with the reactor (or with the alternative equipment performing the same function as a reactor).

For greater certainty, each clean hydrogen project can have only one pyrolysis reactor system (i.e., if a project has more than one reactor, all the reactors would be part of one pyrolysis reactor system).

Also for greater certainty, property that is not eligible for the clean hydrogen tax credit, e.g., excluded property, would not be part of the project's pyrolysis reactor system and would not be relevant in determining whether the capital cost limit is reached.

The technical guidance published by the Department of Natural Resources, referred to in subsection 127.48(32), will also apply with respect to engineering and scientific matters in the determination of whether a property is part of a pyrolysis reactor system.

For more information on the capital cost limit, see the commentary on subsections 127.48(10.1) to (10.3).

This definition is deemed to have come into force on December 16, 2024.

"qualified clean hydrogen project"

A "qualified clean hydrogen project" is a clean hydrogen project where, after the clean hydrogen project plan in respect of the project is filed with the Minister of Natural Resources, the Minister of Natural Resources has confirmed in writing that the conditions in paragraphs (a) to (c) have been met.

Subparagraph (b)(i) of this definition is amended to clarify that for a project to constitute a "qualified clean hydrogen project", the expected carbon intensity included in the project plan must be less than four. For example, if the expected carbon intensity of the project is deemed to be greater than 4.5 under subsection 127.48(6) (e.g., because the taxpayer is proposing to use an ineligible electricity generation source), then the project cannot become a qualified project.

This amendment is deemed to have come into force on March 28, 2023.

New paragraph (d) is added to this definition to add new conditions that apply to a clean hydrogen project that produces hydrogen from the pyrolysis of eligible hydrocarbons.

For a pyrolysis project, the taxpayer would need to demonstrate that:

- the expected hydrogen production can reasonably be expected to be achieved based on the project design;
- the expected hydrogen use percentage set out in the end-use plan is 90% or greater;
- the project is expected to consume less than 50% of the hydrogen produced during the compliance period; and
- the expectations set out in the end-use plan can reasonably be expected to be achieved.

If the taxpayer files a revised clean hydrogen project plan with an expected hydrogen use percentage that is less than 90%, paragraph 127.48(8)(c) may apply to deem that the project is no longer a "qualified clean hydrogen project" and there will be a full recovery of any prior credit amounts claimed.

This amendment is deemed to have come into force on December 16, 2024.

"qualifying economic purpose"

The clean hydrogen tax credit is intended to encourage investments in the production of clean hydrogen and clean ammonia in Canada. To ensure that the tax credit is genuinely targeted towards clean hydrogen production (rather than solid carbon production) in the context of projects using the pyrolysis pathway, various rules are introduced.

For example, to qualify for the tax credit, a project's "expected hydrogen use percentage" must be 90% or greater, and to avoid the potential recapture of the tax credit, its "actual hydrogen use percentage" must also be 90% or greater. However, to ensure that the hydrogen produced by such projects is utilized for a *bona fide* economic purpose and is not wasted, both the expected use and the actual use of the hydrogen must be for a "qualifying economic purpose".

This definition sets out two types of qualifying purposes.

First, the hydrogen may be used by the taxpayer for a *bona fide* economic purpose, e.g., supplying energy to the project. However, to prevent projects from using most of the hydrogen produced as an energy source for solid carbon production, a project must be expected to consume less than 50% of the hydrogen to be produced during the compliance period to become a "qualified clean hydrogen project" (under new subparagraph (d)(iii) of that definition) and actually consume less than the 50% threshold during the compliance period to avoid potential recovery tax liability. For more information, see the commentary on the "qualified clean hydrogen project" definition and new subsection 127.48(17.1).

Second, the hydrogen may be sold to a purchaser in circumstances where it is reasonable to conclude that the hydrogen will be used for a *bona fide* economic purpose. Uses that would not qualify as a *bona fide* economic purpose include discarding, wasting, venting, or flaring the hydrogen.

This definition is deemed to have come into force on December 16, 2024.

"solid carbon"

"Solid carbon" means a product that is in a solid state, contains the chemical element carbon, and is derived from the pyrolysis of eligible hydrocarbons.

This definition is mainly relevant for the purposes of determining a project's carbon intensity, as indicated in the project's "end-use plan" (in relation to expected carbon intensity) and in compliance reports required under subsection 127.48(16) (in relation to actual carbon intensity). For more information, see the commentary on the "end-use plan" definition and subsections 127.48(6) and (16).

This definition is deemed to have come into force on December 16, 2024.

Time limit for application

ITA
127.48(4)

Subsection 127.48(4) places a time limit on filing the form necessary to be eligible for the clean hydrogen tax credit.

Currently, the prescribed form claiming the clean hydrogen tax credit must be filed on or before the later of December 31, 2026 and the day that is one year after the taxpayer's filing-due date for the year for clean hydrogen projects that produce hydrogen from the electrolysis of water or the reforming or partial oxidation of eligible hydrocarbons with carbon dioxide captured using a CCUS process.

As part of the introduction of the pyrolysis pathway, this subsection is amended to extend the first deadline to December 31, 2027 for pyrolysis projects to allow more time for taxpayers with such projects to file the prescribed form in respect of acquisitions of eligible clean hydrogen property.

This subsection is also restructured to improve readability.

This amendment is deemed to have come into force on December 16, 2024.

Calculation of carbon intensity

ITA
127.48(6)

Subsection 127.48(6) contains various rules that apply for the purposes of calculating the actual and expected carbon intensities of hydrogen produced and to be produced by a clean hydrogen project of a taxpayer.

Paragraph (6)(a) requires taxpayers to use the most recent Fuel LCA Model at the time of filing of the most recent related clean hydrogen project plan with the Minister of Natural Resources. The same version of the Fuel LCA Model will be used to determine expected and actual carbon intensities, unless the taxpayer elects to use a subsequent version for determining actual carbon intensity.

Consequential to the amendment of the “Fuel LCA Model” definition, paragraph (a) is amended to clarify that the most recent “version of” the Fuel LCA Model (now amended to include a requirement that it is listed in the latest *Clean Hydrogen Investment Tax Credit – Carbon Intensity Modelling Guidance Document*) must be used.

Paragraph (6)(d) provides that, if hydrogen is produced from eligible hydrocarbons, any captured carbon that is subject to an “ineligible use” (as defined in subsection 127.44(1)) is deemed not to be captured.

Paragraph (d) is updated to reflect the repeal of the definition “ineligible use” in subsection 127.48(1).

These amendments are deemed to have come into force on March 28, 2023.

As part of the introduction of the pyrolysis pathway, paragraph (d) is also amended to describe the impact of solid carbon produced by a project on the carbon intensity of the project, depending on its end use.

If the solid carbon is treated as a waste product and disposed of in a manner that would not lead to any of the carbon being released into the atmosphere, or if it is converted or incorporated into another product that is not intended for combustion, then it is deemed by subparagraph (d)(iii) to be permanently stored, similar to captured carbon subject to an eligible use.

If the solid carbon is used in any other manner, then it is deemed by subparagraph (d)(iv) to have been converted into carbon dioxide that is released into the atmosphere, similar to captured carbon subject to an ineligible use.

The contribution to expected carbon intensity of the solid carbon is to be weighted based on the aggregate quantity of solid carbon, in kilograms, in each expected use, as described in the project’s end-use plan. For more information, see the commentary on the definition “end-use plan”.

This amendment is deemed to have come into force on December 16, 2024.

Paragraph (6)(e) describes how electricity generated by the taxpayer or purchased (either from the provincial grid or under an eligible power purchase agreement) and used in connection with a clean hydrogen project is to be taken into account in calculating the carbon intensity of the project.

Clause (e)(i)(B) is amended to remove the requirement for on-site generation equipment using eligible hydrocarbons to have carbon dioxide captured using a CCUS process. This allows for certain equipment that uses fossil fuels (e.g., a hydrogen turbine that requires fossil fuels for startup) to be used as an energy source for the project without clause (D) applying. However, it should be noted that using hydrocarbons as an energy source without a CCUS process would be expected to result in a higher carbon intensity for the project.

Clause (B) is also amended to update the reference to eligible sources of heat used as an input to include heat described in subparagraphs (i)(i) to (iii), consequential to the addition of new subparagraph (i)(ii) for heat recovered from ammonia production by the project.

Clause (e)(i)(D) is amended to clarify the impact on carbon intensity of the taxpayer generating electricity for the project using an ineligible generation source.

Subclause (D)(I) provides that if the project’s compliance period has not started yet, the expected carbon intensity of the project is deemed to be greater than 4.5.

This subclause may apply in two possible scenarios.

First, if an ineligible generation source is included in the taxpayer's initial clean hydrogen project plan, the expected carbon intensity determined in accordance with subsection (6) would not be less than four, so the project could not become a qualified clean hydrogen project.

Second, if the ineligible generation source was not included in the initial plan and the project becomes a qualified clean hydrogen project, but it then starts using an ineligible source prior to the start of the compliance period, then this rule would trigger the requirement to file a revised clean hydrogen project plan under subparagraph 127.48(7)(b)(iii).

Because the compliance period has not started, the taxpayer would have an opportunity to rectify the situation by filing a revised project plan with a new design with respect to the type of electricity to be generated and used.

Subclause (D)(II) provides that if the project's compliance period has commenced, the average actual carbon intensity of the project is deemed to be greater than 4.5 and the taxpayer will be subject to recovery tax under subsection (18) as if the compliance period of the project had ended. There are no further opportunities to rectify this situation, and the recovery tax would be equal to the full amount of any prior credits claimed (adjusted for prior recapture amounts payable).

New subparagraph (e)(ii.1) is added to address the situation where a taxpayer purchases electricity that is generated from an eligible generation source, but not pursuant to an eligible power purchase agreement (e.g., from a source that does not meet the additionality or geographic requirements). The contribution of this electricity to the project's carbon intensity would be calculated as the higher of the input carbon intensity of the technology-specific electricity and that of the provincial grid in the Fuel LCA Model.

Subparagraph (e)(iv) is also added to describe the impact of the taxpayer using electricity from a source that is not described in any of subparagraphs (i) to (iii).

Similar to clause (e)(i)(D), subparagraph (e)(iv) provides that the expected carbon intensity of the project is deemed to be greater than 4.5 if the project's compliance period has not yet commenced (the taxpayer would have an opportunity to rectify the situation by filing a revised project plan with a new design), and if the compliance period has commenced, then the project's average actual carbon intensity is deemed to be greater than 4.5 and the taxpayer will be subject to recovery tax under subsection (18) as if the compliance period of the project had ended.

Paragraph (6)(h) is also amended to apply the same deeming rules in respect of the disposal of environmental attributes. If a taxpayer disposes of any environmental attributes in respect of electricity or eligible renewable hydrocarbons used by its clean hydrogen project, the project's expected carbon intensity or average actual carbon intensity would be deemed to be greater than 4.5, based on the timing of the disposal (before or after the start of the compliance period). This

rule is subject to the exception described in paragraph 127.48(6.1)(a) for the retirement of environmental attributes.

Paragraph (6)(i) describes how certain types of eligible heat used in connection with hydrogen production or electricity production in support of a clean hydrogen project are to be taken into account in calculating the carbon intensity of the project.

New subparagraph (i)(ii) is added to provide that the contribution to carbon intensity of heat recovered from ammonia production by the same project may be disregarded in calculating the project's carbon intensity.

New subparagraphs (i)(iii) and (iv) replace the previous subparagraphs (ii) and (iii) and are amended consequential to the addition of new subparagraph (ii). Specifically, subparagraph (iii) is amended to apply to heat recovered from a production process of the taxpayer other than as described in subparagraph (i) or (ii), and subparagraph (iv) is amended to apply to sources of heat other than those described in subparagraphs (i) to (iii).

If the heat source is not described in one of the categories listed in subparagraphs (i)(i) to (iii), then, similar to clause (e)(i)(D), subparagraph (e)(iv), and paragraph (h), the expected carbon intensity of the project is deemed to be greater than 4.5 if the project's compliance period has not yet commenced (the taxpayer would have an opportunity to rectify the situation by filing a revised project plan with a new design), and if the compliance period has commenced, then the project's average actual carbon intensity is deemed to be greater than 4.5 and the taxpayer will be subject to recovery tax under subsection (18) as if the compliance period of the project had ended. This is to ensure that clean hydrogen projects do not use heat produced from an ineligible source (e.g., heat produced from burning coal).

The amendments to paragraphs (6)(e), (h), and (i) are deemed to have come into force on March 28, 2023.

Paragraph (6)(k) provides that the emissions related to certain products of the hydrogen production process are to be attributed to the production of hydrogen.

As part of the introduction of the pyrolysis pathway, solid carbon (other than solid carbon used in or incorporated into a product that is not intended for combustion) is added to the list of products referred to in paragraph (k).

Projects that convert or incorporate their solid carbon into a product that is not intended for combustion would be able to allocate project emissions between the hydrogen and the solid carbon co-product.

Subparagraph (k)(v) is deemed to have come into force on December 16, 2024.

Environmental attribute certificates

ITA

127.48(6.1)

Subsection 127.48(6.1) is added to address two issues relating to environmental attribute certificates.

First, paragraph (6.1)(a) clarifies that the retirement of environmental attribute certificates to the appropriate provincial authority would not be a "disposition" of environmental attributes (i.e., when a taxpayer retires the certificate to indicate that the environmental attributes associated with the electricity or eligible renewable hydrocarbons have been claimed). This is relevant for the purposes of paragraphs 127.48(6)(h) and (7)(d), which apply when a taxpayer disposes of environmental attributes associated with its clean hydrogen project.

Second, to prevent taxpayers from holding environmental attribute certificates only to sell them after the compliance period ends, paragraph (6.1)(b) creates a deemed disposition of environmental attributes if the relevant certificates associated with electricity or eligible renewable hydrocarbons used by the project during its compliance period are not retired before the filing of the compliance report in respect of the project's fifth operating year.

To prevent this deemed disposition from applying, taxpayers may retire the relevant certificates prior to obtaining the verification report at the end of the compliance period so that the retirement can be verified by the qualified verification firm.

This subsection is deemed to have come into force on December 16, 2024.

Changes to clean hydrogen project

ITA
127.48(7)

Subsection 127.48(7) sets out various situations where subsection 127.48(8) would apply in respect of a clean hydrogen project of a taxpayer. Each case would only arise before the first day of the compliance period of the project.

Paragraph (7)(d) is amended to ensure that subsection 127.48(8) applies when the taxpayer disposes of environmental attributes in respect of electricity purchased under an eligible power purchase agreement or in respect of eligible renewable hydrocarbons.

Paragraph (7)(e) is added to make it clear that taxpayers may voluntarily file a revised project plan by notifying the Minister of Natural Resources in writing. This allows for projects to improve their expected carbon intensity before the start of the compliance period in respect of property that becomes available for use after the confirmation of the revised plan. For more information, see the commentary on subsection 127.48(8).

These two amendments are deemed to come into force on March 28, 2023.

As part of the introduction of the pyrolysis pathway, subsection 127.48(7) is amended to add paragraph (d.1), describing certain specific situations where subsection 127.48(8) would apply. This includes when the taxpayer reasonably expects a decrease (as compared to the most recent project plan for the project) to the project's expected hydrogen production and when an agreement for the sale of solid carbon or hydrogen referenced in the taxpayer's most recent end-use plan has not been finalized and executed or has been materially modified or terminated.

Paragraph (d.1) is deemed to have come into force on December 16, 2024.

Rules relating to revised project plan

ITA
127.48(8)

Subsection 127.48(8) contains several rules that apply after one of the events described in subsection 127.48(7) occurs.

Subparagraphs (8)(b)(ii) and (iii) are amended to clarify the treatment of clean hydrogen tax credits previously deducted or to be claimed when a revised clean hydrogen project plan is filed and subsequently confirmed.

If the taxpayer had previously deducted a clean hydrogen tax credit in respect of the project, the amount of the prior credit shall not be increased if there is a downward adjustment to the project's expected carbon intensity. If the project's expected carbon intensity increases, subsection 127.48(18) applies to add to the taxpayer's tax payable an amount equal to the difference between the credit claimed and the amount that would be the credit amount based on the revised expected carbon intensity.

Any new credits determined on or after the date that the Minister of Natural Resources confirms the revised plan would be based on the expected carbon intensity set out in the revised plan, regardless of whether the revised expected carbon intensity is higher or lower. This would allow for taxpayers to access a higher credit tier for newly acquired property if there are design improvements in the revised plan.

These amendments are deemed to have come into force on March 28, 2023.

As part of the introduction of the pyrolysis pathway, certain pyrolysis-specific references are added to paragraph (8)(b), specifically to the preamble of paragraph (8)(b), clause (8)(b)(ii)(C) and subparagraph (8)(b)(iii).

With the addition of new paragraph (d) to the "qualified clean hydrogen project" definition in subsection (1), the Minister of Natural Resources must also be satisfied that the conditions in that paragraph are met in respect of a pyrolysis project that files a revised clean hydrogen project plan.

If the revised plan contains a decrease to the pyrolysis project's expected hydrogen production that decreases the pyrolysis reactor system capital cost limit, subsection 127.48(10.3) would apply to recapture all or a portion of credits previously deducted.

If there is a decrease to the project's expected hydrogen use percentage to below 90%, the Minister of Natural Resources would be unable to confirm the revised plan and paragraph (8)(c) would apply.

As with expected carbon intensity, any new credits determined on or after the date that the Minister of Natural Resources confirms the revised plan would be based on the expected hydrogen production set out in the revised plan.

Amendments in respect of the pyrolysis pathway are deemed to have come into force on December 16, 2024.

Clean hydrogen project determination and rules

ITA
127.48(9)

Subsection 127.48(9) contains various rules that apply to clean hydrogen projects.

Paragraph (9)(e) empowers the Minister of Natural Resources to request any necessary documentation or information.

Paragraph (e) is reorganized into paragraphs (e) and (f) to address the situation where certain information is not yet available when the request is made and is still not available 180 days later, or where the information becomes available after a project is confirmed by the Minister of Natural Resources (*e.g.*, a finalized and legally binding power purchase agreement). Under amended paragraph (e), the taxpayer is required to submit the requested information by the later of the day that is 180 days after the information was requested and 60 days after the information becomes available.

New paragraph (9)(f) provides that if the taxpayer fails to provide the requested information in accordance with paragraph (e), the Minister of Natural Resources may refuse to confirm the taxpayer's clean hydrogen project plan or revised clean hydrogen project plan, and any general penalties under the Act in respect of the failure may also apply.

These amendments are deemed to have come into force on March 28, 2023.

Capital cost of clean hydrogen property

ITA
127.48(10)

Subsection 127.48(10) contains several rules relating to the determination of the capital cost of eligible clean hydrogen property for the purpose of section 127.48.

Paragraph (10)(a) lists various amounts in respect of which a clean hydrogen tax credit would not be available.

Consequential on the restoration of the eligibility of capital expenditures for the scientific research and experimental development (SR&ED) program, new subparagraph (a)(ii.1) is added to ensure that the clean hydrogen tax credit is not available for any "qualified expenditures" (as defined in subsection 127(9)) in respect of which an investment tax credit for SR&ED is deducted.

This amendment is deemed to have come into force on May 4, 2026.

Paragraph (10)(g) allocates the cost of certain property that is used in both hydrogen and ammonia production between two separate capital cost categories that would be subject to two different specified percentages.

Paragraph (g) is amended to refer to the new defined term "oxygen and nitrogen production equipment" and to clarify that, similar to paragraph (10)(f), this allocation is also based on expected use of the equipment over the first 20 years of the clean hydrogen project's operations, as indicated in the project's most recent clean hydrogen project plan.

For greater certainty, the allocation of the capital cost of oxygen and nitrogen production equipment between hydrogen production and ammonia production would be based on the proportion of oxygen and nitrogen going towards each use listed in paragraph (b) of the "oxygen and nitrogen production equipment" definition.

If the oxygen or nitrogen produced by this equipment is used in electricity or heat generation in support of the project, the capital cost of the equipment may be allocated based on the proportion of electricity and heat that supports hydrogen production versus ammonia production. If the oxygen or nitrogen is used to support a CCUS process, then that portion of the capital cost of the equipment would be allocated to hydrogen production (because a CCUS process would generally be part of the hydrogen production process and not the ammonia production process).

Example

A taxpayer with a clean hydrogen project has an air separation unit (ASU) that produces 100 tonnes of oxygen to be used for all four listed uses in the "oxygen and nitrogen production equipment" definition: 60% for hydrogen production, 20% for electricity generation equipment in support of the project, and 20% for a CCUS process in support of the project. The ASU also produces 350 tonnes of nitrogen, 100 tonnes of which are used in ammonia production while the other 250 tonnes are sold to the market. The ASU has a capital cost of $100 million and is eligible under the "oxygen and nitrogen production equipment" definition because all or substantially all of the oxygen is used by the project.

The electricity generated is used 60% for hydrogen production, 30% for ammonia production, and 10% for the CCUS process.

The allocation under paragraph (10)(g) will be determined based on how both of the oxygen and nitrogen are used, excluding the nitrogen sold to the market.

First, the capital cost of the ASU may be allocated based on the proportion of oxygen and nitrogen used towards hydrogen production (30%, which is 60 tonnes of oxygen ÷ 200 tonnes of oxygen and nitrogen used in the project) and ammonia production (50%, which is 100 tonnes of nitrogen ÷ 200 tonnes of oxygen and nitrogen).

Next, for the 20% of the oxygen used for electricity generation (which is 10% of the 200 tonnes of both oxygen and nitrogen), 60% of it would be allocated to hydrogen production, 30% of it would be allocated to ammonia production, and the remaining 10% would be allocated to the CCUS process.

Finally, based on the 20% of the oxygen used in the CCUS process, an additional 10% of the ASU's capital cost would be allocated to hydrogen production (20 tonnes of oxygen ÷ 200 tonnes of both oxygen and nitrogen).

The capital cost allocated to hydrogen production would be $47 million [$100 million × (30% + (10% × (60% + 10%)) + 10%)], and the capital cost allocated to ammonia production would be $53 million [$100 million × (50% + (10% × 30%))].

These amendments are deemed to have come into force on March 28, 2023.

Maximum capital cost of pyrolysis reactor system

ITA
127.48(10.1)

As part of the introduction of the pyrolysis pathway, new subsection 127.48(10.1) implements a "cap" on the capital cost of a pyrolysis reactor system that may be eligible for the clean hydrogen tax credit.

Paragraph (a) deems the aggregate capital cost of the system to be the lesser of two amounts: (i) the amount of the limit, and (ii) the aggregate capital cost of all eligible clean hydrogen property forming part of the system determined without reference to this subsection.

The limit in subparagraph (a)(i) is determined by the formula A × B, where variable A is $3,000 and variable B is the project's expected hydrogen production (in tonnes) set out in the project's most recent clean hydrogen project plan.

Paragraph (b) sets out a formula to determine the capital cost of the property that, when acquired, would make the aggregate capital cost of the system exceed the limit determined under subparagraph (a)(i). For the purposes of determining the taxpayer's clean hydrogen tax credit in

respect of this particular property, the capital cost of the property is deemed to be equal to the difference between the limit and the aggregate capital cost of all other property forming part of the system.

Paragraph (c) applies after paragraph (b) has applied (subject to subsection 127.48(10.2), if the limit increases) and states that the capital cost of any new property added to the system would be deemed to be nil.

This subsection is deemed to have come into force on December 16, 2024.

Example

A taxpayer with a clean hydrogen project following the methane pyrolysis pathway acquires a pyrolysis reactor with a capital cost of $2.5 million. The expected hydrogen production contained in the project's clean hydrogen project plan is 1,000 tonnes.

According to subparagraph (10.1)(a)(i), the pyrolysis reactor system's capital cost limit would be $3 million ($3,000 × 1,000 tonnes).

Since the aggregate capital cost of the system is currently at $2.5 million, paragraphs (10.1)(b) and (c) do not apply at this time.

The project then adds a new component part to the system (without changing the project's expected hydrogen production). The part has a capital cost of $600,000.

Because the aggregate capital cost of the system determined without reference to subsection (10.1) is now $3,100,000 ($2,500,000 + $600,000), paragraph (b) will then apply to deem the capital cost of the new part to be $500,000 ($3,000,000 – $2,500,000).

Now that paragraph (b) has applied, subject to future increases in the project's expected hydrogen production, paragraph (c) will deem the capital cost of all future acquisitions forming part of the pyrolysis reactor system to be nil.

Increase to capital cost limit

ITA
127.48(10.2)

New subsection 127.48(10.2) applies if the project's expected hydrogen production increases, which then increases the "cap" amount determined under subparagraph (10.1)(a)(i) in respect of a pyrolysis reactor system.

The treatment of this change is similar to the treatment of a decrease to a project's expected carbon intensity, where the increased limit applies only to property acquired after the date of the confirmation by the Minister of Natural Resources of the revised clean hydrogen project plan containing the increased expected hydrogen production.

Example

A taxpayer with a clean hydrogen project following the methane pyrolysis pathway acquires a pyrolysis reactor with a capital cost of $3.5 million. The expected hydrogen production contained in the project's clean hydrogen project plan is 1,000 tonnes.

Under subsection (10.1), the capital cost of the reactor is deemed to be $3,000,000 ($3,000 × 1,000 tonnes) and the taxpayer claims a clean hydrogen tax credit for that year.

In a subsequent year before the start of the project's compliance period, the taxpayer submits a revised clean hydrogen project plan with a higher expected hydrogen production of 2,000 tonnes. The revised plan is confirmed by the Minister of Natural Resources in the same year. As a result, the system capital cost limit increases to $6,000,000 ($3,000 × 2,000 tonnes).

The first reactor would not be eligible for additional credit amounts, but if the taxpayer acquires another piece of property that is part of the pyrolysis reactor system after the confirmation, the new property would have an eligible capital cost of up to $3,000,000.

Pyrolysis system recapture – decrease in expected production

ITA
127.48(10.3)

New subsection 127.48(10.3) imposes a recapture tax if there is a decrease in a project's expected hydrogen production before the project's compliance period begins. If this is the case, the taxpayer will be required to file a revised clean hydrogen project plan under subsection 127.48(7).

The tax payable is determined by the formula $(1 – (A \div B)) \times C$.

Variable A is the aggregate capital cost amount determined under paragraph (10.1)(a) using the expected hydrogen production included in the revised plan.

Variable B is the aggregate capital cost amount determined under paragraph (10.1)(a) using the expected hydrogen production used to determine the most recent clean hydrogen tax credit in respect of all property forming part of the system.

If there has been a conversion to a non-hydrogen or ammonia use, export, or disposition of property forming part of the system before the filing of the revised plan, and the aggregate capital cost of the remaining property in the system (the aggregate of all such property's deemed capital cost determined under paragraph (22.1)(a)) is less than the amount determined under variable A (and the formula produces a negative number), there will be no recapture under subsection (10.3).

Variable C is the total clean hydrogen tax credit amount deducted in respect of all property forming part of the system.

Example

A taxpayer with a clean hydrogen project following the methane pyrolysis pathway acquires a pyrolysis reactor with a capital cost of $3.5 million. The expected hydrogen production contained in the project's initial clean hydrogen project plan is 1,000 tonnes, so the aggregate capital cost for the system determined under paragraph (10.1)(a) would be $3 million ($3,000 × 1,000 tonnes).

The project qualifies for the 25% credit rate, and the taxpayer claims $750,000 of clean hydrogen tax credits ($3 million capital cost × 25% specified percentage).

If the project's expected hydrogen production later decreases to 500 tonnes, the aggregate capital cost determined under paragraph (10.1)(a) would then be $1.5 million ($3,000 × 500 tonnes).

Under subsection (10.3), the recapture tax would be $375,000 [(1 – ($1.5 million ÷ $3 million)) × $750,000].

Compliance – annual carbon intensity reporting

ITA
127.48(16)

Subsection 127.48(16) sets out the requirement for a taxpayer that has deducted a clean hydrogen tax credit in respect of a qualified clean hydrogen project to file a compliance report containing certain information in respect of each operating year.

Paragraph (16)(c) is amended to clarify that the shutdown time to be included in each compliance report would be the time during which the project does not produce hydrogen.

Similar to the amendment to the "operating year" definition, this clarification seeks to align the project's shutdown time with the shutdown of hydrogen production, as the average actual carbon intensity of a project is based on the quantity of hydrogen produced in each operating year.

This amendment is deemed to have come into force on March 28, 2023.

Subsection 127.48(16) is also amended as part of the introduction of the pyrolysis pathway to add a requirement to include in each compliance report the end use of the solid carbon produced by the project during the operating year.

In addition, the report to be prepared by a qualified verification firm and filed in respect of the final operating year must verify the project's actual hydrogen use percentage at the end of the compliance period and the end use of the solid carbon produced by the project during each operating year.

This amendment is deemed to have come into force on December 16, 2024.

Pyrolysis recapture – end of compliance period

ITA
127.48(17.1)

New subsection 127.48(17.1) describes the consequences where a qualified clean hydrogen project has failed to meet the expectations set out in subparagraph (d)(ii) or (iii) of the "qualified clean hydrogen project" definition at the end of the compliance period.

In particular, if the project's actual hydrogen use percentage is less than 90%, or if the project consumed 50% or more of the hydrogen produced during the compliance period, the average actual carbon intensity of the project is deemed to be greater than 4.5.

Subsection 127.48(18) will then apply to impose a recovery tax for the entire amount of any clean hydrogen tax credits deducted by the taxpayer.

This subsection is deemed to have come into force on December 16, 2024.

Recovery – change in carbon intensity

ITA
127.48(18)

Subsection 127.48(18) may require a taxpayer to pay a recovery tax if, at the end of the compliance period of its qualified clean hydrogen project, the project's average actual carbon intensity is higher than the most recent expected carbon intensity that was used to determine a clean hydrogen tax credit amount in respect of the project.

As part of the introduction of the pyrolysis pathway, subsection (18) is amended by updating variable C and adding a new variable D to the formula, making the formula (A – B) × C – D. This formula is applied to each eligible clean hydrogen property forming part of the project.

Variable C is generally the capital cost amount on which the clean hydrogen tax credit was deducted. Variable C is amended to provide that if the property is part of a pyrolysis reactor system and the aggregate capital cost of the system was capped under subsection (10.1), this amount would be the amount determined under paragraph (22.1)(a) (based on the proportion of the cost of the particular property compared to the aggregate capital cost of the system).

Variable D is added to adjust for the portion of any recapture tax previously payable by the taxpayer in respect of the property due to subsection (22) in respect of the property.

These amendments are deemed to have come into force on December 16, 2024.

Recapture of clean hydrogen tax credit

ITA
127.48(22)

Subsection 127.48(22) provides that, where recapture applies in respect of an eligible clean hydrogen property, a taxpayer is required to add to the tax otherwise payable for the year the amount determined by the formula (A – B) × (C ÷ D).

Variable B represents the portion of any recovery tax previously paid by the taxpayer in respect of the property due to subsection 127.48(18).

Variable B is amended to adjust for amounts that are payable by the taxpayer under subsection (18), so that the amount of recapture tax under this subsection can be determined when the tax becomes payable under subsection (18) (without having to track the timing of actual payment). This change would be consistent with new variable D in subsection (18).

This amendment is deemed to have come into force on December 16, 2024.

Recapture — pyrolysis reactor system

ITA
127.48(22.1)

Subsection 127.48(22.1) provides that for the purposes of determining recapture or recovery tax under subsections (10.3), (18), (21), and (22), if subsection (10.1) has applied to limit the capital cost of any property forming part of a pyrolysis reactor system, the capital cost and any clean hydrogen tax credits claimed in respect of the system will be allocated among all property forming part of the system.

Under paragraph (a), the capital cost amount of each property forming part of the system is deemed to be the amount determined by the formula A × (B ÷ C).

Variable A is the limit amount determined in respect of the system under paragraph (10.1)(a).

Variable B is the capital cost of the property determined without reference to subsection (10.1) and this subsection.

Variable C is the aggregate capital cost of all property forming part of the system, also determined without reference to subsection (10.1) and this subsection.

Under paragraph (b), the clean hydrogen tax credit amount in respect of the property is deemed to be the amount determined by the formula D × E, where variable D is the capital cost amount in respect of the property determined under paragraph (a) and variable E is the specified percentage that was applied to the property.

This subsection seeks to apply a proportionate recovery or recapture tax on all property forming part of a pyrolysis reactor system when the initial credit amount was limited for certain property within the system.

This subsection is deemed to have come into force on December 16, 2024.

Example

Facts

- A taxpayer has a clean hydrogen project expected to produce hydrogen through the pyrolysis of eligible hydrocarbons.
- The project's initial clean hydrogen project plan is first filed in 2026 and includes the following details:
    - The project's expected carbon intensity is 0.5;
    - The project's expected hydrogen use percentage is 95%; and
    - The project's expected hydrogen production is 1,000 tonnes.
- The project meets all other eligibility requirements, including the labour requirements in section 127.46.
- The taxpayer acquires two pyrolysis reactors with an aggregate capital cost of $5 million ($2.5 million each) and other pieces of eligible clean hydrogen property with an aggregate capital cost of $3 million.
    - The other pieces of eligible clean hydrogen property are not clean ammonia equipment or property that would be subject to paragraph 127.48(10)(f) or (g).
    - All the equipment becomes available for use in 2027.
- The project first produces hydrogen in 2027, and the taxpayer files both elections to delay the "first day of the compliance period" in respect of the project by two years.
- In 2028, the project sells one of the pyrolysis reactors to an arm's length purchaser for proceeds of $2 million.
- In 2029, and before the first day of the compliance period for the project, the taxpayer files a revised clean hydrogen project plan with a revised expected hydrogen production of 400 tonnes.
- After the project's compliance period ends in 2034, the project's actual hydrogen use percentage is 90% and actual carbon intensity is 1.5.

Analysis

<u>Pyrolysis reactor system capital cost</u>
The two pyrolysis reactors form one pyrolysis reactor system, so subsection (10.1) will apply to limit the aggregate capital cost of the system.

The limit on the aggregate capital cost amount in respect of the pyrolysis reactor system would be $3,000 × 1,000 tonnes = $3 million, as determined under paragraph (10.1)(a).

Since the capital cost of the two pyrolysis reactors is $5 million, the aggregate capital cost of the system would be limited to $3 million for the purposes of determining the taxpayer's clean hydrogen tax credit.

Clean hydrogen tax credit

The expected hydrogen use percentage is 95%, so the project would meet the requirement in subparagraph (d)(ii) of the "qualified clean hydrogen project" definition.

With an expected carbon intensity of 0.5, the applicable specified percentage would be 40%.

For the 2027 taxation year, the taxpayer claims a clean hydrogen tax credit equal to $2.4 million [40% × ($3,000,000 in respect of the pyrolysis reactor system + $3,000,000 in respect of other eligible clean hydrogen property)].

Recapture and recovery

For the 2028 taxation year, one of the pyrolysis reactors was sold, so there will be a recapture under subsection (22). In this case, subsection (22.1) would also apply to allocate a proportional capital cost and credit amount to the reactor.

Under paragraph (22.1)(a), the deemed capital cost for the purpose of determining the recapture amount would be $1.5 million [$3 million × ($2.5 million ÷ $5 million)].

Under paragraph (22.1)(b), the deemed clean hydrogen tax credit amount in respect of the reactor would be $600,000 ($1,500,000 × 40%).

The recapture tax under subsection (22) would then be $600,000, as determined by the formula (A – B) × (C ÷ D):

- Variable A: $600,000;
- Variable B: nil, as there have been no recovery amounts payable;
- Variable C: the taxpayer received proceeds of $2 million, but since this amount exceeds the amount determined for variable D, variable C would be equal to variable D ($1.5 million)
- Variable D: $1.5 million

For the 2029 taxation year, subsection (10.3) would apply due to the project's expected hydrogen production decreasing from 1,000 tonnes to 400 tonnes. As a result, the aggregate capital cost determined under paragraph (10.1)(a) would then become $1.2 million ($3,000 × 400 tonnes).

Because only one pyrolysis reactor remains in the system, variable C of subsection (10.3) would be determined based on the clean hydrogen tax credit amount deducted in respect of the remaining reactor.

Under subsection (10.3), the recapture amount would be $120,000 [1 – ($1.2 million ÷ $1.5 million) × (40% × $1.5 million)].

At the end of the compliance period, subsection (18) would apply to each property as follows:

Property	Application of subsection (18) (A − B) × C – D	Recovery tax amount under subsection (18)
Pyrolysis reactor #1 (sold in 2028)	(40% – 25%) × $1,500,000 – $600,000	0 (negative)
Pyrolysis reactor #2	(40% – 25%) × $1,200,000	$180,000
Other eligible clean hydrogen property	(40% – 25%) × $3,000,000 – 0	$450,000
Total recovery under subsection (18)		$630,000

The total amount recaptured would be $1,350,000 ($600,000 + $120,000 + $630,000).

Recovery and recapture – partnerships

ITA
127.48(25)

When a member of a partnership has claimed a clean hydrogen tax credit in respect of a project allocated to it by a partnership under subsection 127.48(12), subsection 127.48(25) provides that subsections 127.48(18) to (23) apply to determine amounts in respect of the partnership as if it were a taxable Canadian corporation and as if the deemed corporation had claimed all the clean hydrogen tax credits that were claimed by any member of the partnership.

As part of the introduction of the pyrolysis pathway, subsection 127.48(25) is amended to add references to new subsections 127.48(10.3) and (17.1) so that any recapture tax applicable under those provisions apply to partnerships in the same way as subsections (18) to (23).

New subsection 127.48(22.1) (as well as amendments to existing subsections (18) and (22)) also apply to partnerships in the same manner.

This amendment is deemed to have come into force on December 16, 2024.

Credit after compliance period

ITA
127.48(30)

Subsection 127.48(30) provides rules for the purpose of determining a clean hydrogen tax credit for eligible clean hydrogen property acquired after the compliance period of a qualified clean hydrogen project.

As part of the introduction of the pyrolysis pathway, subsection (30) is split into paragraphs (a) and (b), where paragraph (a) contains the existing rule with respect to expected carbon intensity, and new paragraph (b) provides that if the project produces hydrogen under the pyrolysis

pathway, the expected hydrogen use percentage of the project is deemed to be equal to the actual hydrogen use percentage of the project.

This amendment is deemed to have come into force on December 16, 2024.

Authority of the Minister of Natural Resources

ITA
127.48(32)

Subsection 127.48(32) gives the Department of Natural Resources the authority to publish technical guidance that will apply conclusively with respect to engineering and scientific matters, for the purpose of determining whether a property is an eligible clean hydrogen property.

As part of the introduction of the pyrolysis pathway, subsection (32) is amended to add that this technical guidance will also apply for the purpose of determining whether a property is part of a pyrolysis reactor system.

This amendment is deemed to have come into force on December 16, 2024.

Clause 32

Special rules – adjustments

ITA
127.49(5)

Subsection 127.49(5) sets out a number of restrictions on clean technology manufacturing investment tax credit (CTM ITC) claims.

Paragraph (a) lists various amounts in respect of which a CTM ITC would not be available.

Consequential on the restoration of the eligibility of capital expenditures for the scientific research and experimental development (SR&ED) program, new subparagraph (a)(ii.2) is added to ensure that the CTM ITC is not available for any "qualified expenditures" (as defined in subsection 127(9)) in respect of which an investment tax credit for SR&ED is deducted.

This amendment is deemed to have come into force on May 4, 2026.

Certain non-arm's length transfers

ITA
127.49(13) and (14)

Subsection 127.49(13) sets out the conditions for the deferral of recapture under subsection 127.49(14). These rules effectively permit the deferral of recapture that would otherwise be

triggered under subsection 127.49(12) in connection with certain non-arm's-length transfers of CTM property.

Under subsection 127.49(13), recapture of the CTM investment tax credit will be deferred where CTM property is disposed of by a taxpayer to a related qualifying taxpayer in circumstances where the property would be CTM property to the purchaser (but for the requirement that the property not have been previously used under paragraph (b) of the definition of CTM property).

Where the conditions in subsection (13) are met, subsection 127.49(14) makes subsection 127(34) applicable, with such modifications as the circumstances require. This effectively causes the transferee to be treated as if it had claimed the CTM investment tax credit of the transferor in respect of the property, ensuring that the transferee could be subject to recapture if it changes the use of the property to a non-CTM use, or disposes of or exports the property.

These relieving provisions are intended to facilitate bona fide transfers of CTM property within corporate groups.

Subsection 127.49(14) is amended (together with minor consequential amendments to subsection 127.49(13)) to achieve the results described above without making subsection 127(34) applicable. The amendments are intended to simplify interpretation and to ensure that subsection 127.49(14) continues to operate as intended to defer recapture of the CTM investment tax credit on multiple transfers of CTM property within a corporate group, while ensuring that the ultimate transferee within the group remains liable for recapture if an event described in paragraph 127.49(11)(c) occurs.

These amendments apply in respect of property that is acquired and becomes available for use on or after May 4, 2026.

Clause 33

Definitions

ITA
127.491(1)

"*clean electricity property*"

The definition "clean electricity property" describes property for which the clean electricity investment tax credit may be available for a qualifying entity. The definition contains five general requirements, which are set out in paragraphs (a) to (e).

Subparagraph (e)(vii), which describes certain stationary electricity storage equipment, is amended to clarify that it excludes stationary electricity storage equipment that is part of a system that uses any fossil fuel in operation.

This amendment applies in respect of property that is acquired and becomes available for use on or after May 4, 2026.

"*operating year*"

The definition "operating year" is relevant in respect of a "specified natural gas energy system" (as defined in subsection 127.491(1)) and the recovery tax provided in subsection 127.491(18).

An "operating year" in the context of a specified natural gas energy system means each cumulative 365-day period during which the system operates (i.e., produces any amount of electrical energy). As a result, any period during which the system is not operating is disregarded in the calculation of a system's operating year.

The definition is amended to clarify that any day during which the system is not operating is disregarded in the calculation of a system's operating year.

This amendment is deemed to have come into force on April 16, 2024.

"*province*"

The definition "province" is added to ensure that a reference to a province includes the Newfoundland offshore area and the Nova Scotia offshore area. This clarifies that property located in either of these offshore areas is considered to be within a province for the purpose of the definition "qualified interprovincial transmission equipment" in subsection 127.491(1).

This amendment is deemed to have come into force on April 16, 2024.

"*qualified natural gas energy equipment*"

The definition "qualified natural gas energy equipment" lists the conditions that must be met for a property to be such equipment in paragraphs (a) to (d).

Paragraph (a) requires that the property be part of a system that meets the conditions listed in subparagraphs (i) to (vii). Notably, clause (a)(i)(A) requires that the system be fuelled all or substantially all by the combustion of natural gas, while clause (a)(i)(B) further requires that the system not be fuelled by anything other than the combustion of gaseous fuels within the system.

Clause (a)(i)(B) is amended to clarify the language to ensure that the system is fuelled solely by the combustion of gaseous fuels within the system.

This amendment applies in respect of property that is acquired and becomes available for use on or after May 4, 2026.

Special rules – adjustments

ITA
127.491(9)

Subsection 127.491(9) sets out various rules to determine the capital cost of clean electricity property to a qualifying entity. By excluding amounts from the capital cost of property in the context of the clean electricity investment tax credit, these rules operate to in effect deny support under this tax credit to the extent described.

Paragraph (a) lists various amounts in respect of which a clean electricity investment tax credit would not be available.

Consequential on the restoration of the eligibility of capital expenditures for the scientific research and experimental development (SR&ED) program, new subparagraph (a)(ii.1) is added to ensure that the clean electricity investment tax credit is not available for any "qualified expenditures" (as defined in subsection 127(9)) in respect of which an investment tax credit for SR&ED is deducted.

This amendment is deemed to have come into force on May 4, 2026.

Shared filing

ITA
127.491(19.1)

Subsection 127.491(19.1) is added as a relieving rule that applies when more than one person may be required to file various forms, documentation or information in respect of the same qualified natural gas energy system.

Under this subsection, the documentation filed by one person with full and accurate disclosure is deemed to have been filed by each person to whom the relevant filing requirement applies in respect of the qualified natural gas energy system.

For example, if a qualified natural gas energy system is owned by a partnership, one member of the partnership may file the compliance reports required under subsection (19) on behalf of other members that are subject to the same reporting requirements.

This amendment is deemed to have come into force on April 16, 2024.

Certain non-arm's length transfers

ITA
127.491(22) and (23)

Subsection 127.491(22) sets out the conditions for the deferral of recapture under subsection 127.491(23). These rules effectively permit the deferral of recapture that would otherwise be

triggered under subsection 127.491(17) in connection with certain non-arm's-length transfers of clean electricity property.

Under subsection 127.491(22), recapture of the clean electricity investment tax credit will be deferred where clean electricity property is disposed of by a qualifying entity to another qualifying entity in circumstances where the property would be clean electricity property to the purchaser (but for the requirement that the property not have been previously used under paragraph (c) of the definition of clean electricity property).

When the conditions in subsection (22) are met, subsection 127.491(23) makes subsection 127(34) applicable, with such modifications as the circumstances require. This effectively causes the transferee to be treated as if it had claimed the clean electricity investment tax credit of the transferor in respect of the property, ensuring that the transferee could be subject to future recapture if it changes the use of the property to an ineligible use, or disposes of or exports the property.

These relieving provisions are intended to facilitate bona fide transfers of clean electricity property within corporate groups.

Subsection 127.491(23) is amended (together with minor consequential amendments to subsection 127.491(22)) to achieve the results described above without making subsection 127(34) applicable. The amendments are intended to simplify interpretation and to ensure that subsection 127.491(23) continues to operate as intended to defer recapture of the clean electricity investment tax credit on multiple transfers of clean electricity property within a corporate group, while ensuring that the ultimate transferee within the group remains liable for recapture if an event described in paragraph 127.491(16)(c) occurs.

These amendments apply in respect of property that is acquired and becomes available for use on or after May 4, 2026.

Clause 34

ITA
128(1)(g)

Subsection 128(1) provides rules applicable to corporations that have become bankrupt. Paragraph 128(1)(g) applies to the taxation year that the corporation was granted the absolute order of discharge from bankruptcy and any subsequent year by denying the deductibility of losses under section 111 that the corporation incurred prior to or during a period in which it was bankrupt. Outside the bankruptcy context, the settlement or extinguishment of commercial debt for less than its issuance or principal amount subjects the debtor to a reduction of their tax attributes (and a potential income inclusion) under sections 80 to 80.04, known as the "debt forgiveness rules".

Some corporate taxpayers are entering into arrangements in which they are temporarily assigned into bankruptcy prior to settling or extinguishing a commercial obligation with a view to

avoiding the application of both the debt forgiveness rules in section 80 and the loss restriction rule in paragraph 128(1)(g). As a result, there is no reduction in the taxpayer's tax attributes and no income inclusion even though the bankruptcy is subsequently annulled. Although these arrangements can be challenged by the government based on existing rules in the Act, these challenges can be both time-consuming and costly. Accordingly, the Government is proposing this specific legislative measure.

Paragraph 128(1)(g) is repealed consequential upon the amendment of subparagraph (i) of element B of the definition "forgiven amount" in subsection 80(1) to subject a bankrupt corporation to the debt forgiveness rules. Together with the new definition of "forgiven amount" in subsection 80(1), bankrupt corporations will be subject to a reduction of their non-capital loss and net capital loss carry forward balances (as well as other tax attributes) upon settlement or forgiveness of their debts. Relief from the application of the debt forgiveness income inclusion rule in subsection 80(13) remains available to qualifying bankrupt corporations under section 61.3. For more information, see the commentary to the definition "forgiven amount" in subsection 80(1).

This amendment applies in respect of bankruptcy proceedings that are commenced on or after April 16, 2024.

Clause 35

Post-emigration loss — reassessment period

ITA
128.1(8.1)

Subsection 128.1(8) provides relief to an individual (other than a trust) who disposes of a taxable Canadian property, after having emigrated from Canada, for proceeds that are less than the deemed proceeds that arose under paragraph 128.1(4)(b) in respect of the property when the individual emigrated. Under subsection 128.1(8) the individual may elect to reduce the proceeds of disposition that were deemed to arise under paragraph 128.1(4)(b) in respect of a property by the least of certain specified amounts.

New subsection 128.1(8.1) provides that the Minister may make any assessment, reassessment or additional assessment in respect of the year in which the proceeds of disposition were deemed to arise to take into account an election to reduce those proceeds under subsection (8). This new subsection will ensure that the Minister may take into account the election where the period of time between the moment when the proceeds of disposition were deemed to arise and the moment when the property is subsequently disposed of is such that the Minister would otherwise have been prevented from doing so because of subparagraph 152(4)(b)(i).

Clause 36

Dividends deemed not to be taxable dividends

ITA
129(1.2)

Subsection 129(1.2) is an anti-avoidance rule that is intended to support the normal operation of subsection 129(1). Subsection 129(1) is part of the system for integrating the taxes paid on investment income by a private corporation and the taxes paid by the shareholders on the subsequent distribution of that income.

Subsection 129(1.2) is designed to prevent a corporation from structuring arrangements to obtain a dividend refund without the related shareholder tax being paid. The arrangements involve a dividend that is paid on a share of the capital stock of a corporation, and the share (or a substituted share) acquired by its holder as part of a transaction or series of transactions one of the purposes of which was to enable the corporation to obtain a dividend refund. When the rule applies, the taxable dividend is deemed not to be a taxable dividend for the purpose of subsection 129(1). Notably, the rule can apply to arrangements where shares with high redemption value but low paid-up capital are issued by a corporation to accommodating tax-exempt entities or corporations that are not subject to tax on taxable dividends received on a subsequent share redemption if one of the main purposes of the transaction or series was to obtain a dividend refund for the issuer corporation.

Subsection 129(1.2) is amended to add a reference to new subsections 129(1.3) to (1.32) and affiliated corporations. In general terms, these new subsections seek to prevent the deferral of the tax otherwise payable by a private corporation on investment income.

When new subsection 129(1.3) applies to a taxable dividend paid by a dividend payer to an affiliated corporation, a dividend refund to which the dividend payer could otherwise be entitled is denied and may be released in a subsequent taxation year in which subsection (1.32) applies.

This amendment applies to dividends paid in taxation years beginning on or after November 4, 2025.

Staggered year-ends – dividend refund suspension

ITA
129(1.3)

New subsection 129(1.3) prevents the deferral of the refundable taxes on investment income otherwise payable by a private corporation or subject corporation under Parts I and IV using corporations with staggered taxation year-ends within an affiliated group.

Subsection 129(1.3) prevents a corporation from obtaining a dividend refund under subsection 129(1) in a taxation year upon the payment of a taxable dividend to an affiliated private corporation or subject corporation that receives the dividend in a taxation year that ends after the taxation year of the payer corporation in which the dividend was paid. In such a case, the taxable dividend (referred to as the “suspended dividend”) paid by the payer corporation is deemed not to be a taxable dividend for the purpose of subsection 129(1), effectively denying a dividend refund to the

payer corporation in respect of that dividend. This deeming rule applies to the dividend payer only; accordingly, the taxable dividend keeps its character in the hands of the dividend payee.

The dividend payer could be entitled to a release of the suspended dividend refund in a subsequent taxation year if the affiliated payee corporation pays a taxable dividend during that taxation year in circumstances provided under new subsection 129(1.32). For more information, see the commentary on subsection (1.32).

Subsection 129(1.3) does not apply to dividends to which paragraphs 55(3)(a) or (b) apply in the course of a reorganization, or if one of the exclusions under new subsection 129(1.31) applies.

Example 1 – Application of subsection 129(1.3)

Investco and Holdco are private corporations. Holdco is the sole shareholder of Investco. Both corporations are affiliated.

Investco has a December 31 year-end and Holdco has a November 30 year-end.

Investco receives a $1,000 portfolio dividend in its 2026 taxation year from a corporation with which it is not connected and reinvests the dividend proceeds in marketable securities. Investco is subject to a $383 refundable tax under Part IV which is due by Investco's balance-due day for its 2026 taxation year (February 28, 2027). The $383 Part IV tax is included in Investco's ERDTOH at the end of its 2026 taxation year.

On December 31, 2026, Investco pays a $1,000 taxable dividend by issuance of a promissory note to Holdco. Holdco has received Investco's $1,000 taxable dividend during its 2027 taxation year. Holdco does not pay any taxable dividends in its 2027 taxation year.

Absent new subsection 129(1.3):

- *Investco would be entitled to obtain a dividend refund equal to its Part IV tax liability for its 2026 taxation year, resulting in no Part IV tax payable for the year.*
- *Holdco would have to pay $383 of refundable tax under Part IV on the $1,000 taxable dividend received on December 31, 2026. The tax would be payable by its balance-due day for the year in which it received the dividend (January 31, 2028).*
- *The affiliated corporate group would defer by nearly one year the Part IV tax liability of Investco in respect of the $1,000 portfolio dividend that it received.*

Under new subsection 129(1.3):

- *The $1,000 dividend paid by Investco to Holdco is a suspended dividend (deemed not to be a taxable dividend paid by Investco for the purposes of subsection 129(1)) because the end of the taxation year of Holdco in which it received the dividend (November 30, 2027) is after the end of Investco's taxation year in which it paid the dividend (December 31, 2026).*
- *Investco cannot obtain a dividend refund for its 2026 taxation year based on the suspended dividend it paid to Holdco. Investco's liability for $383 Part IV tax remains payable as of its balance-due day of February 28, 2027.*

- *The suspended dividend received by Holdco on December 31, 2026, is exempted from Part IV tax to avoid double taxation (see the commentary to paragraph 186(1)(b)).*
- *Investco's dividend refund can be released in a subsequent taxation year if Holdco satisfies the conditions in subsection 129(1.32).*

Example 2 – Timing Dividends to Avoid Subsection 129(1.3)

Using the same facts as the example above, Investco would avoid subsection 129(1.3) (and the tax deferral concern it addresses) if, rather than paying the $1,000 taxable dividend to Holdco on December 31, 2026, it paid this dividend to Holdco on or before November 30, 2026. In this case, Holdco received the dividend in a taxation year that ends before the end of Investco's taxation year.

Alternatively, Investco would avoid subsection (1.3) if it paid the dividend one day later, January 1, 2027. In this scenario, Investco would be subject to $383 of refundable Part IV tax on its balance-due day of February 28, 2027. The dividend paid to Holdco would not be subject to subsection (1.3) because the end of the taxation year of Holdco in which it received the dividend (November 30, 2027) would fall before the end of Investco's taxation year in which it paid the dividend (December 31, 2027). Investco would be entitled to a refund of the $383 of Part IV tax paid after filing its return for its 2027 taxation year.

In sum, subsection (1.3) does not apply to dividends paid by Investco to Holdco during the months of January to November. Consequently, provided that Investco does not pay a dividend to Holdco during the month of December, subsection (1.3) will not apply.

This amendment applies to dividends paid in taxation years beginning on or after November 4, 2025.

Exclusion

ITA
129(1.31)

New subsection 129(1.31) excludes from subsection 129(1.3) a taxable dividend paid by a payer corporation to a payee corporation under certain conditions. In general terms, under this exclusion, a payer corporation can be entitled to a dividend refund in a taxation year under subsection 129(1) upon paying a taxable dividend to a payee corporation if there is no deferral within the affiliated group of the tax payable on the investment income of the payer corporation. A payer corporation would also be entitled to a dividend refund if the payer corporation is subject to a loss restriction event within 30 days after paying the taxable dividend. An exclusion is also provided to taxable dividends that are paid in contemplation of a loss restriction event in respect of the payer corporation that occurs within 12 months after the payment of the dividends.

These two exclusions are provided in paragraphs (a) and (b).

<u>Paragraph (a)</u>

The exclusion under paragraph (a) applies if the payee corporation paid, on or before the payer corporation's balance-due day for the year in which it paid the dividend, one or more taxable dividends of the same character (e.g. an eligible dividend or a non-eligible dividend) as the original dividend it received from the payer corporation, the total amount of which is at least equal to the product obtained by multiplying 2.6 by the portion of the dividend refund the payer corporation would otherwise be entitled to in respect of the original dividend without reference to subsection (1.3) – defined as a "suspended portion" for the purposes of section 129. The product obtained is based on a dividend refund rate of 38.33% of taxable dividends paid by a payer corporation (2.6 = 100/38.33), so that a $100 taxable dividend would need to be paid by the payer corporation to obtain $38.33 of dividend refund. Moreover, the exclusion in paragraph (a) applies only if no portion of the taxable dividend paid by a payee corporation in excess of the suspended portion (the excess being the "surplus payee dividend" - or, if applicable, a taxable dividend paid by a grand-parent corporation in excess of the relevant portion of the suspended portion (the excess being the "surplus grandparent dividend") -is otherwise relied upon by any taxpayer to avoid the application of subsection (1.3), as provided by its subparagraph (iii). This rule ensures that a taxable dividend paid by a payee corporation (or a grandparent corporation, if applicable) can be relied upon only once (e.g. no double counting) to prevent the application of (1.3).

Example 1 – Early Dividend Payment by Payee Corporation

Investco, a Canadian-controlled private corporation (CCPC), receives $1,000 of rental income subject to the refundable tax on aggregate investment income under Part I of the Act, resulting in approximately $500 of Part I tax and a $300 addition to its non-eligible refundable dividend tax on hand (NERDTOH). Investco has a December 31st, 2026 fiscal year-end and a February 28th, 2027 balance-due day.

On December 31st, 2026, Investco pays a $1,000 taxable dividend to Holdco (a CCPC). Holdco has a November 30, 2027 fiscal year-end and a January 31, 2028 balance-due day. However, on January 1, 2027 (before Investco's February 28, 2027 balance-due day) Holdco pays a $1,000 taxable dividend to its sole shareholder, Individual A, who resides in Canada.

Pursuant to the exclusion under subparagraph (a)(i), subsection (1.3) does not apply to the taxable dividend paid by Investco because the payee corporation (Holdco), paid a subsequent taxable dividend on or before the payer corporation's (Investco) balance-due day in an amount ($1,000) that equals or exceeds Investco's suspended portion of $780 (2.6 x $300), with the excess of $220 being referred to as the surplus payee dividend. Because Individual A is subject to personal income tax on the taxable dividend paid by Holdco on January 1, 2027 (before Investco's balance-due day), the tax deferral advantage that would otherwise arise from the staggered taxation year-ends within the affiliated corporate group is effectively eliminated, thus subsection (1.3) does not apply.

Example 2 – Early Dividend Payment by Grandparent Corporation

Consider the same fact pattern as example 1 – Investco has a $300 addition to its NERDTOH from rental income and on December 31st, 2026 pays a taxable dividend of $1,000 to Holdco which

has a staggered year-end. However, this time on January 1, 2027 (before Investco's February 28, 2027 balance-due day), Holdco pays a $1,000 taxable dividend to its sole shareholder, Grandparent Corporation. Subsequently, on January 15th, 2027 (before Investco's February 28, 2027 balance-due day), Grandparent Corporation pays a taxable dividend of $800 to its sole shareholder, Individual A, who resides in Canada.

In this example, both new subparagraphs (a)(i) and (ii) must be considered to determine whether the taxable dividend paid by Investco is excluded from subsection 129(1.3). Under new subparagraph (a)(i), the payee corporation (Holdco) paid a subsequent taxable dividend on or before the payer corporation's (Investco) balance-due day in an amount ($1,000) that equals or exceeds Investco's suspended portion of $780 (2.6 x $300), with the excess of $220 being referred to as the surplus payee dividend. However, subparagraph (a)(ii) must also be considered because Holdco paid the taxable dividend to Grandparent Corporation. Grandparent corporation satisfies subparagraph (a)(ii) because it paid a subsequent taxable dividend on or before the payer corporation's (Investco) balance-due day in an amount ($800) that equals or exceeds the Grandparent's portion of Investco's suspended portion, being $780 (2.6 x $300 x [1,000/1,000]), with the excess of $20 being referred to as the surplus grandparent dividend. As a result, subsection (1.3) does not apply to the $1,000 taxable dividend paid by Investco to Holdco.

Paragraph (b)

Paragraph (b) provides an exclusion from subsection (1.3) for taxable dividends paid by the payer corporation if the corporation is subject to a loss restriction event within 30 days after it paid the dividend, or 12 months after it paid the dividend if the payment was made in contemplation of a loss restriction event in respect of the payer corporation. A loss restriction event is defined for the purposes of the Act under subsection 251.2(2); in the case of a corporation, it involves an acquisition of control of the corporation by a person or group of persons. This exclusion allows for taxable dividends to be paid by a corporation before its acquisition of control under those circumstances without subsection (1.3) applying in respect of those dividends.

This amendment applies to dividends paid in taxation years beginning on or after November 4, 2025.

Release of suspended dividend refund

ITA
129(1.32)

New subsection 129(1.32) is introduced to allow a payer corporation to obtain a dividend refund under subsection 129(1) in respect of a taxable dividend that it paid in a prior year for which a dividend refund could not be obtained because new subsection 129(1.3) applied to that dividend.

Under subsection 129(1), a corporation is entitled to a dividend refund in the taxation year in which it pays a taxable dividend, whether as an eligible dividend or as a non-eligible dividend. The amount of the dividend refund is based on the total of all taxable dividends that it pays in a taxation

year, subject to the limitation provided by the corporation's balance in its "non-eligible refundable dividend tax on hand" (NERDTOH) or "eligible refundable dividend tax on hand" (ERDTOH).

New subsection 129(1.3) prevents a payer corporation from obtaining a dividend refund under subsection 129(1) in a taxation year in respect of a taxable dividend that it pays in the year to an affiliated private corporation or subject corporation that has a taxation year in which the dividend was received that ends after the taxation year of the corporation in which the dividend was paid. In such a case, the taxable dividend paid by the payer corporation in the year is deemed not to be a taxable dividend for the purposes of subsection 129(1) and is disregarded in determining its dividend refund for the year.

Subsection 129(1.32) deems the payer corporation to have paid, for purposes of subsection 129(1), a taxable dividend in a particular taxation year that is equal to the suspended portion (described under subsection (1.31)) of a taxable dividend paid by the corporation in a prior taxation year that was subject to 129(1.3) - referred to as the "suspended dividend" - when certain conditions listed under paragraphs (a) to (c) are met in the period that is between the payment of the suspended dividend and the end of the particular taxation year. The taxable dividend deemed to have been paid under this subsection is equal to the suspended portion of the suspended dividend and has the same character as the suspended dividend (an eligible or a non-eligible dividend) to ensure that the dividend refund is calculated appropriately.

The conditions in paragraphs 129(1.32)(a) to (c) are cumulative. In general terms, and as further explained below:

- Paragraph (a) requires an amount at least equal to the suspended portion of a suspended dividend of the payer corporation be distributed out of the affiliated and connected corporate group to which the payee corporation (and any grandparent corporation, if applicable) belongs such that no corporate income tax deferral advantage remains in respect of the investment income of the payer corporation that was subject to subsection (1.3). A suspended portion of a suspended dividend is determined based on the formula in subsection (1.31).

- Paragraphs (b) and (c) provide "no double counting" rules to ensure that only the payer corporation obtains a dividend refund in respect of the amount of the suspended portion that is flowed out of the affiliated and connected corporate group.

Consequential amendments are made to paragraph 186(1)(b) to provide that the amount of the dividend refund that a payer corporation can obtain in a particular taxation year because it is deemed to have paid the suspended dividend in that year under new subsection 129(1.32) is not considered in determining the amount of Part IV tax that may be applicable to taxable dividends that the payer corporation pays to connected corporations in the year (for more information, see the commentary to paragraph 186(1)(b)).

Paragraph (a)

In general terms, new paragraph (a) sets out cumulative conditions that must be met between the time a suspended dividend was paid and the end of the particular taxation year of the payer corporation for a taxable dividend equal to the suspended portion of a suspended dividend of a payer corporation to be deemed to have been paid by the payer corporation at the end of the particular taxation year.

The first condition, in subparagraph (i), requires that the payer corporation was not subject to a loss restriction event during the relevant time.

The second condition, in subparagraph (ii), requires the distribution of taxable dividends by the payee corporation and, if applicable, by each grandparent corporation (as referred to in subparagraph (1.31)(a)(ii) at the time subsection (1.3) applied to the payer corporation in respect of the suspended dividend), of the same character as the suspend dividend paid by the payer corporation (e.g., as an eligible dividend or a non-eligible dividend).

Whether the second condition is satisfied depends on the identity of the dividend recipients and the amount of the taxable dividends paid. Reference below to a payee corporation includes a reference to a grandparent corporation. The taxable dividends must be received directly or indirectly by a taxpayer that is not a corporation affiliated or connected with the payer corporation (subject to further conditions below) - these dividends are referred to as the "particular dividends" the total amount of which must be greater than or equal to the suspended portion of the suspended dividend as required under subparagraph (a)(iii).

The second condition can be satisfied if the taxable dividends paid by the payee corporation were received by a taxpayer that was neither a corporation that was affiliated with the payer corporation immediately before the payment of the suspended dividend, nor a private corporation or a subject corporation (within the meaning assigned by subsection 186(3)) that was connected with the payee corporation when the payee corporation paid the taxable dividend (subject to an exception explained below). A taxpayer is considered to have received a particular dividend from the payee corporation if it has received it indirectly through a trust, a partnership or another corporation with which the payer corporation was affiliated immediately before the payment of the suspended dividend. Accordingly, taxable dividends paid to individuals (other than trusts), non-affiliated corporations and non-connected corporations would be particular dividends that satisfy this condition.

If a taxable dividend is paid by a payee corporation to a connected corporation, the second condition can be satisfied to the extent that the following conditions are met:

- Under subclause (a)(ii)(B)(I), the connected corporation paid one or more taxable dividends ("connected dividends") the total amount of which equals or exceeds its share of the suspended portion based on the proportion of that portion that the amount of the taxable dividend that it received is of the dividend paid by the payee corporation (the "connected portion"), during the taxation year in which the connected corporation has received that taxable dividend.

- Under subclause (a)(ii)(B)(II), if the connected corporation paid a connected dividend that was received by another corporation with which it was connected, the latter corporation paid one or more taxable dividends, the total amount of which equals or exceeds its share of the connected portion based on the proportion of the connected portion that the amount of the connected dividend received is of the connected dividend . A corporation is considered to have received a taxable dividend if it has received it indirectly through a trust, a partnership or another connected corporation.

The third condition in subparagraph (iii) requires the total amount of the particular dividends described in the second condition be at least equal to the payer corporation's suspended portion with any excess referred to as a "surplus dividend" which is relevant to new paragraph (b). In the case of a particular dividend received by a connected corporation, the amount of the particular dividend is equal to the sum of two amounts to reflect the taxable dividends that are paid by the connected corporation and the connected parent and grandparent corporation that allow the dividend paid by the payee corporation to the connected corporation to be a "particular dividend". The first amount is the amount of the connected dividend paid by the connected corporation to a taxpayer that is not affiliated with the payer corporation immediately before the suspended dividend was paid or that is not connected in respect of the connected corporation. The second amount is the amount of taxable dividends paid by the connected parent or grandparent corporation to a taxpayer other than a taxpayer that is affiliated with the payer corporation immediately before the suspended dividend was paid or that is connected in respect of the connected parent or grandparent corporation.

Paragraph (b)

Paragraph (b) prevents the double counting of taxable dividends paid by corporations in the circumstances described in subparagraph (a)(ii) to ensure the proper application of subsections 129(1), (1.3) and (1.32).

In general terms, for subsection (1.32) to apply, subparagraphs (a)(ii) and (iii) require that payee corporations and grandparent corporations in respect of the payer corporation pay taxable dividends the total amount of which equals or exceeds the suspended portion of the suspended dividend with the total amount of any excess referred to as "surplus dividends".

Paragraph (b) provides that no portion of the taxable dividends described in subparagraph (a)(ii) that exceed the amount of the surplus dividends is relied on by any taxpayer (other than the payer corporation in respect of the suspended dividend) to either obtain a dividend refund under subsection 129(1) or avoid the application of subsection (1.3). Surplus dividends can be relied upon to obtain a dividend refund under subsection 129(1) or to avoid the application of subsection (1.3). Where a taxable dividend paid by a payee corporation to a connected corporation qualifies as a particular dividend through the payment of taxable dividends described in subclause (a)(ii)(B)(I) and (II), a similar requirement applies in respect of the portion of those taxable dividends in excess of the relevant share of the applicable connected portion

Example 1 – Dividend paid by Payee Corporation to Affiliated Corporation

Investco, a private corporation, receives a $1,000 portfolio eligible dividend subject to $383 Part IV tax in its 2026 taxation year, giving rise to $383 of ERDTOH at the end of its taxation year. Investco has a December 31, 2026 taxation year-end and a February 28, 2027 balance-due day.

On December 31, 2026, Investco pays a $1,000 eligible dividend to Holdco which Holdco reinvests in marketable securities. Holdco, a private corporation wholly owned by Individual A, has a November 30, 2027 taxation year-end and a January 31, 2028 balance-due day. Holdco and Investco are affiliated. Holdco also has a $383 ERDTOH balance from a prior taxation year.

Because Holdco receives an eligible dividend payment on December 31, 2026 (in its 2027 taxation year) and its taxation year ends after the taxation year-end of Investco, subsection 129(1.3) applies to deem the $1,000 dividend paid to Holdco not to be a taxable dividend paid by Investco for purposes of subsection 129(1). Consequently, Investco's dividend refund of $383 of ERDTOH under subsection 129(1) is denied and its liability for $383 of Part IV tax remains payable as of its February 28, 2027 balance-due day. Because Investco could not obtain the dividend refund, the $1,000 dividend received by Holdco is not subject to Part IV tax in respect of its 2027 taxation year.

On June 1, 2026, which is during Investco's 2027 taxation year, Holdco pays a $2,000 eligible dividend to Individual A, which is greater than Investco's suspended portion of $996 (2.6 x $383). Holdco obtains an ERDTOH refund of $383 upon paying the $2,000 taxable dividend; however, the amount of the taxable dividend required to be paid to claim the refund ($1,000) does not exceed the surplus dividend of $1,004 ($2,000 - $996). Further, the taxable dividend that it paid is not relied upon by any taxpayer to avoid the application of subsection 129(1.3).

Consequently, new subsection 129(1.32) applies to deem Investco to have paid a $996 eligible dividend for purposes of 129(1) during its 2027 taxation year, entitling Investco to a dividend refund of its ERDTOH balance.

Example 2 – Dividend paid by Payee Corporation to Connected Corporation

Investco, a private corporation, receives a $1,000 portfolio eligible dividend subject to $383 Part IV tax in its 2026 taxation year, giving rise to $383 of ERDTOH at the end of its taxation year. Investco has a December 31, 2026 taxation year-end and a February 28, 2027 balance-due day.

On December 31, 2026, Investco pays a $1,000 eligible dividend to Holdco 1 which Holdco 1 reinvests in marketable securities. Holdco 1, a private corporation wholly owned by Holdco 2, has a November 30, 2027 taxation year-end and a January 31, 2028 balance-due day. Holdco 2 also has a November 30, 2027 taxation year-end. Holdco 1 and Investco are connected, as are Holdco 1 and Holdco 2.

Because Holdco 1 receives an eligible dividend on December 31, 2026 (in its 2027 taxation year) and its taxation year ends after the taxation year-end of Investco, subsection 129(1.3) applies to deem the $1,000 dividend paid to Holdco not to be a taxable dividend paid by Investco for purposes of subsection 129(1). Consequently, Investco's dividend refund of $383 of ERDTOH under

subsection 129(1) is denied and its liability for $383 of Part IV tax remains payable as of its February 28, 2027 balance-due day. Because Investco could not obtain the dividend refund, the $1,000 dividend received by Holdco is not subject to Part IV tax in respect of its 2027 taxation year.

On June 1, 2026, which is during Investco's 2027 taxation year, Holdco 1 pays a $2,000 eligible dividend to Holdco 2, a connected corporation. As Holdco 2 is connected to Holdco 1, Investco is not deemed to have paid a taxable dividend under subsection 129(1.32)(a)(ii)(B).

On June 20, 2026, which is during Investco's 2027 taxation year, Holdco 2 pays a $2,000 eligible dividend to Individual A, which is greater than Investco's suspended portion of $996 (2.6 x $383). Holdco 2 only obtains a dividend refund on the surplus dividend of $1,004 ($2,000 - $996) under subsection 129(1) for its 2027 taxation year and the taxable dividend that it paid is not relied upon by any taxpayer to avoid the application of subsection 129(1.3).

Consequently, new subsection 129(1.32) applies to deem Investco to have paid a $996 eligible dividend for purposes of 129(1) during its 2027 taxation year, entitling Investco to a refund of its ERDTOH balance.

Paragraph (c)

Paragraph (c) ensures that subsection (1.32) cannot apply more than once in respect of the same suspended dividend (for example, if subsection (1.32) applied once in respect of a suspended dividend of a payer corporation and the payee corporation again paid sufficient taxable dividends in a subsequent taxation year).

This amendment applies to dividends paid in taxation years beginning on or after November 4, 2025.

Assessments

ITA
129(1.33)

New subsection 129(1.33) provides the Minister of National Revenue the authority to make the assessments, reassessments, determinations and redeterminations that are necessary to give effect to subsections 129(1.3) to (1.32), including for the purposes of Part IV, notwithstanding that the taxation year in question is otherwise statute-barred from assessment.

This amendment applies to dividends paid in taxation years beginning on or after November 4, 2025.

Clause 37

General

ITA
132.2(3)

Subsection 132.2(3) sets out rules that apply to each mutual fund trust or each mutual fund corporation undergoing a qualifying exchange. Consequential to the repeal of the definition "qualified investment" in each of subsections 146(1), 146.1(1), 146.3(1) and 146.4(1), paragraph 132.2(3)(h) is updated to remove the references to these subsections.

This amendment comes into force on January 1, 2027.

Clause 38

Definitions

ITA
135.2(1)

Subsection 135.2(1) contains definitions for the application of section 135.2, which contains rules that apply in respect of the continuance of the Canadian Wheat Board under the *Canada Business Corporations Act*.

"eligible trust"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the reference in subparagraph (g)(iii) of the definition "eligible trust" to property described in paragraph (b) of the previous qualified investment definition in section 204 is updated to refer to subparagraph (c)(i) of the definition in 207.01(1).

This amendment comes into force on January 1, 2027.

Clause 39

Termination of amateur athlete trust

ITA
143.1(3)

Section 143.1 of the Act provides for the tax treatment of certain amounts received by or on behalf of individuals who are amateur athletes. Under the eligibility standards of certain international sport federations, in order to preserve the eligibility status of an athlete for international competition, certain types of income earned by the athlete must be deposited with, and controlled and administered by, the applicable national sport organization.

Subsection 143.1(3) is intended to ensure that amounts held by amateur athlete trusts are included in an individual's income within a reasonable period of time. This subsection provides that if an individual has not competed in an international sporting event as a Canadian national

team member for eight years, the amounts held by the amateur athlete trust at the end of the year are deemed to be distributed to the individual athlete at that time. The eight-year period commences with the later of the last year in which the athlete so competed and the year in which the trust was created.

Consequential on the introduction of new subsection 143.1(3.1) of the Act, subsection (3) is amended to provide that it is subject to the application of the new special rule in subsection (3.1). For more information, see the commentary on new subsection (3.1).

This amendment comes into force on January 1, 2019.

Special rule – 2019

ITA
143.1(3.1)

New subsection 143.1(3.1) of the Act applies if the eight-year period referred to in subsection 143.1(3), determined without reference to subsection (3.1), would end in 2019. Where new subjection (3.1) applies, it extends that period to nine years. As a result, the period referred to in subsection (3) will instead end in 2020 and the deemed distribution under subsection (3) by a trust will occur at the end of the 2020 taxation year rather than the 2019 taxation year.

This amendment comes into force on January 1, 2019.

Clause 40

Employee life and health trust

ITA
144.1(2)

Subsection 144.1(2) sets out the conditions that must govern a trust throughout a taxation year in order for the trust to qualify as an employee life and health trust (ELHT).

Paragraph 144.1(2)(a) limits the purpose of the trust to providing benefits to certain individuals. It is amended to add a reference to new subparagraph 144.1(2)(d)(v) to permit the trust to provide benefits to an individual who receives a designated employee benefit through an employee of a participating employer (or former participating employer) with whom the employee deals at arm’s length.

Paragraph 144.1(2)(b) requires that the terms of the trust must provide that, on wind up of the trust, the remaining property of the trust may only be distributed as provided in any of subparagraphs (i) to (iii). Key employees and individuals related to key employees are not permitted to receive trust property on wind-up under subparagraph 144.1(2)(b)(i).

Subparagraph 144.1(2)(b)(iii) is amended to relax the requirement related to a distribution to His Majesty in right of Canada or a province. Previously, such a distribution could not be made prior to the death of the last beneficiary described in subparagraph 144.1(2)(d)(i) or (ii). The amended subparagraph adds a reference to "other than a key employee or an individual who is related to a key employee". Consequently, if the last beneficiary (or beneficiaries) of an ELHT is a key employee or related person, a distribution of ELHT property to the Crown is permitted.

Paragraph 144.1(2)(d) requires that the trust have no beneficiaries other than persons each of whom is an employee of a participating employer, an employee's spouse or common law partner, a member of the employee's household who is related to the employee, another ELHT or His Majesty in right of Canada or a province. This paragraph is amended by adding subparagraph (v).

New subparagraph 144.1(2)(d)(v) allows an individual to be a beneficiary of an ELHT for the limited purpose of receiving a designated employee benefit if it is received as a result of employment of an employee and the employee deals at arm's length with all participating employers. This change will generally ensure that employees and beneficiaries are not disadvantaged because benefits that could have been provided under other plans (such as private health services plans) are provided through an ELHT. In the case of employees who do not deal at arm's length with participating employers, the qualified beneficiaries will be limited to those described in subparagraphs 144.1(2)(d)(i) and (ii), namely the employee themself, their spouse or common-law partner, related members of their household or related dependents.

Paragraph 144.1(2)(e) requires that an ELHT contains at least one class of beneficiaries that represents at least 25% of all of the beneficiaries of the trust who are employees of a participating employer. In addition, clause (B) requires either at least 75% of the members of the class must not be key employees of the employer, or that contributions to the trust in respect of key employees who deal at arm's length with their employer are determined in connection with a collective bargaining agreement.

Clause 144.1(2)(e)(i)(B) is amended in three ways. The prior preamble to clause (B) which allowed "either" of two conditions is replaced by a 75% test that can be met in one of two ways; specifically 75% of the class must either be individuals that are not key employees (or individuals related to key employees) as described in subclause (I) or are individuals who deal at arm's length with participating employers and whose contributions to the trust are determined in connection with a collective bargaining agreement as described in subclause (II). Second, a reference to individuals related to a key employee is added to subclause (I). Finally, a reference to individuals related to a participating employer is added to subclause (II). This is intended to ensure that a reference class consisting solely of non-employees or non-arm's length unionized individuals does not qualify to permit excessively generous benefits to shareholder employees and their families.

The amendment to paragraph 144.1(2)(e) comes into force on January 1, 2027. Other amendments to section 144.1 come into force on royal assent.

Clause 41

Definitions

ITA
146(1)

Subsection 146(1) defines a number of terms that apply to registered retirement savings plans (RRSPs). Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the qualified investment definition in subsection 146(1) is repealed.

This amendment comes into force on January 1, 2027.

"spousal or common-law partner plan"

The definition "spousal or common-law partner plan" is relevant for the purposes of the special attribution rules in subsections 146(8.3) and 146.3(5.1) that require a taxpayer to include in income certain amounts otherwise included in the income of the taxpayer's spouse in respect of an RRSP or a RRIF.

The definition "spousal or common-law partner plan" is amended by adding paragraph (c) to include a reference to a member's account under a pooled registered pension plan that has received a payment out of or a transfer from a spousal plan in relation to a taxpayer.

For further information see commentary on new subsection 147.5(13.1).

This amendment is deemed to have come into force on August 15, 2025.

Acceptance of plan for registration

ITA
146(2)

Subsection 146(2) of the Act sets out the conditions that a registered retirement savings plan must comply with in order to be registered with the Canada Revenue Agency.

That subsection is amended to add a requirement that an application for registration be made in a prescribed manner. See additional commentary for the amendment to the definition "prescribed" in subsection 248(1) of the Act.

This amendment comes into force on royal assent.

No tax while trust governed by plan

ITA
146(4)

Subsection 146(4) provides that no tax is payable by an RRSP except in specified circumstances. While this exemption does not extend to income from the carrying on of a business, it does extend to business income from, or from the disposition of, a qualified investment for RRSPs.

Consequential to the replacement of the definition “qualified investment” in subsection 146(1) with the definition “qualified investment” in subsection 207.01(1), subparagraph 146(4)(b)(ii) is updated to refer to the latter.

This amendment comes into force on January 1, 2027.

Transfer of funds

ITA
146(16)(b)

Subsection 146(16) allows taxpayers to transfer funds on a tax-deferred basis from their registered retirement savings plan (RRSP) to registered vehicles listed in that subsection before maturity of the transferor RRSP.

Paragraph 146(16)(b) is amended to allow for a transfer from an RRSP to a registered pension plan for the benefit of a spouse or common-law partner or former spouse or common-law partner as a result of a division of property on the breakdown of marriage or common-law partnership. In addition, the requirement for “living separate and apart” is deleted.

This amendment comes into force on royal assent.

Clause 42

ITA
146.1

Budget 2024 announced the government's intention to amend the *Canada Education Savings Act* to introduce automatic enrolment in the Canada Learning Bond for eligible children who do not have an RESP opened for them before age 4.

Section 146.1 is being amended (effective on royal assent) to provide modified conditions applicable to RESPs for which the subscriber is the Minister designated for purposes of the *Canada Education Savings Act.*

Other amendments made to section 146.1 (relating to qualified investments) come into force on January 1, 2027.

Definitions

ITA

146.1(1)

Subsection 146.1(1) defines a number of terms that apply to registered education savings plans (RESPs). Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the qualified investment definition in subsection 146.1(1) is repealed.

This amendment comes into force on January 1, 2027.

A new definition of "designated subscriber" is added to subsection 146.1(1). A designated subscriber in respect of an education savings plan means the Minister that is designated for the purposes of the *Canada Education Savings Act* and that enters into the plan with a promoter.

The definitions of "education savings plan" and "subscriber" are each amended to include a reference to a "designated subscriber".

The definition of "subscriber" is also amended by adding paragraph (a.2) to recognize various individuals that can become a plan subscriber by taking over a plan that had previously been established and administered by a designated subscriber (the Minister). The qualified successor subscribers include the beneficiary, the primary caregiver of the beneficiary, or the spouse or common-law partner of the primary caregiver.

Social Insurance Number not required

ITA
146.1(2.3)

Subsection 146.1(2.3) provides exceptions to the requirement that a beneficiary's Social Insurance Number must be provided to the promoter of the education savings plan.

New paragraph 146.1(2.3)(c) provides an additional exception where the subscriber of an RESP is a designated subscriber. See the additional commentary on the new definition of "designated subscriber" in subsection 146.1(1).

Trust not taxable

ITA
146.1(5)

Subsection 146.1(5) provides that no income tax is payable by a trust governed by a RESP except if it holds property that is not a qualified investment.

Consequential to the replacement of the definition "qualified investment" in 146.1(1) with the definition "qualified investment" in subsection 207.01(1), the reference in subsection 146.1(5) to properties that are not qualified investments is updated to refer to property that is a non-qualified investment (as defined in subsection 207.01(1)).

This amendment comes into force on January 1, 2027.

Special rules

ITA
146.1(8)

New subsection 146.1(8) introduces modifications to registration conditions (in section 146.1) that will apply to education savings plans entered into between a designated subscriber and a promoter. See the additional commentary on the new definition of "designated subscriber" in subsection 146.1(1).

Paragraph 146.1(8)(a) applies in the case that an RESP had been opened on behalf of a beneficiary by a designated subscriber and then another subscriber subsequently acquires the rights of the designated subscriber under the plan. In that case, the Social Insurance Number of the beneficiary must be provided to the promoter before an educational assistance payment may be made to or for the beneficiary.

Paragraph 146.1(8)(b) applies throughout a period during which the subscriber of an RESP is a designated subscriber. It modifies two registration conditions and adds two new conditions that apply throughout that period:

- The conditions in paragraph 146.1(2)(d.1) that normally apply to accumulated income payments will not apply to accumulated income payments to a designated subscriber. That is, those conditions do not apply to the earnings and gains (on Canada Learning Bonds) that are paid to the designated subscriber to facilitate the closure of automatically opened plans, as needed.
- The condition in paragraph 146.1(2)(l) does not apply. Accordingly, the promoter of the RESP need not inform the beneficiary, parent or primary caregiver that a plan has been opened on behalf of the beneficiary. It is contemplated that the designated subscriber will inform the necessary parties that the plan has been established.
- The plan may not accept contributions on behalf of the beneficiary. For this purpose, note that Canada Learning Bond payments into an RESP are not a "contribution".
- The plan may not make educational assistance payments to or on behalf of the beneficiary.

Clause 43

Definitions

ITA
146.3(1)

Subsection 146.3(1) defines a number of terms that apply to registered retirement income funds (RRIFs).

"minimum amount"

A trusteed RRIF can hold two types of annuity contracts: prior to 2027, they are the commutable annuities described in paragraph (b.1) of the definition "qualified investment" in subsection 146.3(1) and locked-in annuities described in paragraph (b.2) of the definition "qualified investment" in subsection 146.3(1).

Consequential to the repeal of the qualified investment definition in subsection 146.3(1), variables A and C in the formula in the minimum amount definition are amended to refer to new paragraph (j) of the qualified investment definition in subsection 207.01(1). See additional commentary for that subsection.

These amendments come into force on January 1, 2027.

"qualified investment"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the qualified investment definition in subsection 146.3(1) is repealed.

This amendment comes into force on January 1, 2027.

Acceptance of fund for registration

ITA
146.3(2)

Subsection 146.3(2) sets out the conditions that a RRIF must comply with in order to be registered with the Canada Revenue Agency. Paragraphs (e.1) and (e.2) require a carrier to retain enough property to ensure a RRIF's minimum amount is paid to the annuitant when transferring all or part of the RRIF property to another RRIF or a registered pension plan (RPP). Paragraph 146.3(2)(f) prohibits a RRIF from receiving property other than property transferred from the registered vehicles listed in that paragraph.

Consequential to the repeal of the qualified investment definition in subsection 146.3(1), subsection 146.3(2) is amended in four ways. First, the reference to a qualified investment in paragraph (e.1) is amended to refer to the revised qualified investment definition in subsection 207.01(1). Second, clause 146.3(2)(e.2)(i)(B) is updated to refer to paragraph (g) of the definition "qualified investment" in subsection 207.01(1) (commutable annuities).

These amendments come into force on January 1, 2027.

Third, subparagraph 146.3(2)(f)(iii) is amended as a consequence of the introduction in 2023 of clause 60(j)(iv)(C) that permits a RRIF to receive property from non-registered pension plans under the conditions set out in paragraph 60(j).

This amendment is deemed to have come into force on August 4, 2023.

Finally subsection 146.3(2) is amended to add a requirement that an application for registration be made in a prescribed manner. See additional commentary for the amendment to the definition "prescribed" in subsection 248(1) of the Act.

This amendment comes into force on royal assent.

No tax while trust governed by fund

ITA
146.3(3)

Subsection 146.3(3) provides that no tax is payable by a RRIF except in specified circumstances. While this exemption does not extend to income from the carrying on of a business, it does extend to business income from, or from the disposition of, a qualified investment for RRIFs.

Consequential to the replacement of the definition "qualified investment" in subsection 146.3(1) with the definition "qualified investment" in subsection 207.01(1), subparagraph 146.3(3)(e)(ii) is updated to refer to the latter.

This amendment comes into force on January 1, 2027.

Subsection (6.3) not applicable

ITA
146.3(6.4)

Subsection 146.3(6.4) sets out two conditions which must generally be satisfied in order for the deduction under subsection (6.3) in respect of a post-death reduction in value to be available. One of these conditions is that the RRIF must have held no investments other than qualifying investments during the post-death period.

Consequential to the replacement of the definition "qualified investment" in subsection 146.3(1) with the definition "qualified investment" in subsection 207.01(1), paragraph 146.3(6.4)(a) is updated to refer to the latter.

This amendment comes into force on January 1, 2027.

Tax payable on income from non-qualified investment

ITA
146.3(9)

Subsection 146.3(9) provides that, if a trust governed by a RRIF acquires a non-qualified investment, any income earned by the trust from the investment is taxable under Part I.

Consequential to the replacement of the definition “qualified investment” in subsection 146.3(1) with the definition “qualified investment” in subsection 207.01(1), subsection 146.3(9) is updated to refer to the non-qualified investment definition in subsection 207.01(1).

This amendment comes into force on January 1, 2027.

Transfer on breakdown of marriage or common-law partnership

ITA
146.3(14)

Subsection 146.3(14) provides for the direct transfer (i.e., tax deferred) of an amount from an annuitant's RRIF to an RRSP or RRIF of the annuitant's current or former spouse or common-law partner on the breakdown of their marriage or common-law partnership.

Paragraph 146.3(14)(b) is amended by adding a subparagraph (iii) to include registered pension plans in the list of vehicles available for a direct transfer from a RRIF for the benefit of the annuitant’s current or former spouse or common-law partner after the relationship breakdown.

This amendment comes into force on royal assent.

Transfer to PRPP or RPP

ITA
146.3(14.1)

Subsection 146.3(14.1) provides for the direct transfer of an amount from an annuitant's RRIF to a money purchase provision of a registered pension plan (RPP) and similar arrangements.

Subsection 146.3(14.1) is amended in two ways. First, the reference to “transferred at the direction of the annuitant directly to” that appears in each of paragraphs (a) to (c) is moved to the preamble.

Second, a new paragraph (d) is added to permit a direct transfer of an amount from an annuitant’s RRIF to a defined benefit provision of an RPP not exceeding the amount necessary to fund additional benefits that will be provided as a consequence of a past service event (for example, crediting past years of service under an RPP).

This amendment is deemed to have come into force on January 1, 2025.

Clause 44

Definitions

ITA
146.4(1)

Subsection 146.4(1) defines a number of terms that apply to registered disability savings plans (RDSPs).

"qualified investment"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the qualified investment definition in subsection 146.4(1) is repealed.

This amendment comes into force on January 1, 2027.

"specified maximum amount"

This definition is relevant for the purposes of subparagraph 146.4(4)(n)(i), which imposes the maximum annual limit on the amount of disability assistance payments that can be made from an RDSP when the plan is a primarily government-assisted plan.

Consequential to the repeal of the qualified investment definition in subsection 146.4(1), variables A and B in the formula in the specified maximum amount definition are amended to refer to new paragraph (i) of the qualified investment definition in subsection 207.01(1) (locked-in annuities for RDSPs). See additional commentary for that subsection.

This amendment comes into force on January 1, 2027.

Plan conditions

ITA
146.4(4)

Subsection 146.4(4) sets out registration conditions applicable to RDSPs. Paragraph 146.4(4)(l) limits the amount of disability assistance payments that can be paid from an RDSP.

Consequential to the repeal of the qualified investment definition in subsection 146.4(1), two amendments to the formula in paragraph (4)(l) are made. The references in variable A and subparagraph (i) of variable D are amended to refer to new paragraph (i) of the qualified investment definition in subsection 207.01(1) (locked-in annuities for RDSPs). See additional commentary for that subsection.

These amendments come into force on January 1, 2027.

Trust not taxable

ITA
146.4(5)

Subsection 146.4(5) provides that an RDSP trust is taxable only on income from carrying on a business or income earned on non-qualified investments.

Consequential to the replacement of the definition "qualified investment" in subsection 146.4(1) with the definition "qualified investment" in subsection 207.01(1), the reference in subsection 146.4(5) to properties that are not qualified investments is updated to refer to property that is a non-qualified investment (as defined in subsection 207.01(1)).

This amendment comes into force on January 1, 2027.

Clause 45

Definitions

ITA
146.5(1)

"advanced life deferred annuity"

The definition "advanced life deferred annuity" (ALDA) in subsection 146.5(1) of the Act provides the conditions that an annuity contract must meet to qualify as an ALDA contract.

Amendments to subsections 146.5(1), (4.1) and (5) of the Act are being made to better align the ALDA tax rules with various provincial pension standards laws that apply to annuities purchased from registered plans.

Subparagraph 146.5(1)(c)(ii) is amended to add a reference to a former spouse or common-law partner of the annuitant to allow for the annuity to be payable for the joint life of the annuitant and their former spouse or partner, consistent with provincial legislation.

Subparagraph 146.5(1)(d)(ii) is amended to allow the amount of the annuity to be changed to allow sharing of rights between spouses or common-law partners after the breakdown of a marriage or a partnership. It is also amended to allow for an annuity to be adjusted on an actuarially equivalent basis if a spouse or common-law partner is no longer entitled to the annuity.

Paragraph (f) of the definition describes the sole type of lump sum death benefit payable from an ALDA. Subparagraph (f)(ii) is amended in two ways. First, it is now calculated with reference to a formula (A + B – C). Originally, the amount determined under paragraph (f) was effectively the amount of the purchase price of the annuity contract less the amount of any annuity payments made from the contract. Those two amounts are now expressed as variables A and C of the formula. Second, a new amount (variable B) is added that effectively represents an amount of interest calculated on the purchase price from the date of the annuity purchase to the date of the payment of the lump sum death benefit. In short, if the annuity purchase price plus interest exceeds the total annuity payments to the annuitant, the contract may pay the residual amount to a survivor of the annuitant.

New paragraph (g.1) is added to the definition to allow for the payment under the contract to a spouse or common-law partner (or former spouse or common-law partner) on or after the breakdown of their marriage or common-law partnership in settlement of rights from their marriage or partnership as a single amount, periodic payment or a direct transfer to an RRSP, RRIF, pooled registered pension plan or a money purchase provision of a registered pension plan.

Paragraph (i) of the definition requires the annuity contract to stipulate that no right under the contract is capable of being assigned, charged, anticipated, given as security or surrendered. Paragraph (i) is amended to provide an exception for amounts required to be paid as a result of the breakdown of marriage as described in new paragraph (g.1) or support payments made under a judicial order or a written agreement.

These amendments are deemed to come into force on January 1, 2023.

Taxable amount – marriage breakdown

ITA
146.5(4.1)

New subsection 146.5(4.1) is added to the Act to require that amounts paid under paragraph (g.1) of the definition of "advanced life deferred annuity" (in subsection 146.5(1)) be included in the income of the recipient spouse or common-law partner (or former spouse or common-law partner), unless subsection 146.5(5) applies.

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

Treatment of amount transferred

ITA
146.5(5)

Subsection 146.5(5) of the Act contains rules that apply to an amount refunded from an ALDA that is transferred directly to a registered vehicle.

Subsection 146.5(5) is amended, consequential to paragraph (g.1) of the definition of "advanced life deferred annuity" (in subsection 146.5(1)), so that these rules will also apply to the transfers described in subparagraph (g.1)(ii)(C).

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

Clause 46

Definitions

ITA
147(1)

"deferred profit sharing plan"

Subsection 147(1) defines terms used in the provisions relating to deferred profit sharing plans (DPSPs).

The definition of "deferred profit sharing plan" is amended to remove the requirement that both the trustee under the plan and an employer of employees who are beneficiaries under the plan apply in prescribed manner for registration. The new requirement is that either the trustee under the plan *or* a participating employer may apply in prescribed manner for registration.

This amendment is deemed to have come into force on August 12, 2024.

Clause 47

Notice of revocation

ITA
147.1(12)

Subsection 147.1(12) provides that, after the Minister of National Revenue has given a notice of intention to revoke the registration of a pension plan, the Minister may give a further notice that the registration of the plan is revoked as of a specified date, which date may be no earlier than the date stated in the notice of intent. Subsection 147.1(12) also allows the Minister to give a notice of revocation where a plan administrator applies for the revocation of plan registration.

Subsection 147.1(12) is amended to clarify that the date of revocation in an administrator's application to revoke a plan's registration only applies in the case where the Minister of National Revenue has not given a notice of intention to revoke. That is, if the Minister had issued a notice of intention, the date of revocation specified by the Minister will prevail over any other date requested by the plan administrator.

This amendment comes into force on royal assent.

Clause 48

Former employee

ITA
147.2(9) and (10)

Section 147.2 provides the rules that govern the deductibility of employer and employee contributions to registered pension plans (RPPs). The subsection is amended by adding new

subsections (9) and (10) that will apply to the pension benefit entitlements of orphaned employees (i.e., members of a defined benefit pension plan whose employer or former employer no longer participates in the plan for ongoing benefit accumulation of employees). Together, these two subsections will permit other employers to make contributions to the pension plan to ensure that the plan has sufficient assets to pay for the legacy pension benefits of the orphaned employees.

New subsection 147.2(9) sets out the conditions under which other employers will be permitted (under new subsection (10)) to make contributions to fund legacy benefits. For plans that are not individual pension plans, relief is being provided where a plan member's employer or former employer has ceased to be a participating employer under the plan and the member has not become an employee of any of the other participating employers under the plan.

If the conditions set out in subsection (9) are met, new subsection 147.2(10) deems the member to be a former employee of all other participating employers. Since subsection 147.2(2) requires that employer contributions be made "in respect of the employees or former employees" of an employer, the deeming rule in new subsection 147.2(10) will effectively permit any participating employer under a defined benefit pension plan to make unfunded liability contributions towards the legacy benefits of orphaned employees.

These amendments are deemed to have come into force on August 15, 2025.

Clause 49

Definitions

ITA
147.5(1)

Subsection 147.5(1) defines terms that are relevant for the purposes of section 147.5 (pooled registered pension plans).

A "member" of a pooled pension plan is defined an individual (other than a trust) who holds an account under the plan.

The definition "member" is amended to define a member of a pooled pension plan as an individual (other than a trust) that is a member of the plan under the *Pooled Registered Pension Plans Act* or a similar law of a province. This amendment will ensure that a member of a pooled pension plan for income tax purposes reflects the definition of member in federal or provincial legislation.

Amount included in income

ITA
147.5(13.1)

Subsection 147.5(13.1) is introduced as a spousal attribution rule, equivalent to subsection 146(8.3) and 146.3(5.1), designed to discourage income-splitting via the use of a spousal RRSP. New subsection 147.5(13.1) is an anti-avoidance provision which prevents the use of a pooled registered pension plan (PRPP) as a means of avoiding the spousal attribution rules that apply to RRSPs and RRIFs.

Subsection 147.5(13.1) requires a member's spouse to include in income any amount received in a year by the member out of a PRPP to the extent that the spouse made contributions to a spousal RRSP that were deductible by the taxpayer under subsection 146(5.1) for that year or for either of the two preceding years and to the extent that the PRPP received transfers from a "spousal or common-law partner plan" (as defined in subsection 146(1)). This rule does not apply where, at the time the amount is received by the annuitant from the RRSP, the annuitant and spouse were living separate and apart because of a marriage breakdown.

See commentary on the definition of "spousal or common-law partner plan" in subsection 146(1).

This amendment is deemed to have come into force on August 15, 2025.

Other attribution rules

ITA
147.5(13.2)

New subsection 147.5(13.2) is consequential to the introduction of subsection 147.5(13.1). It incorporates by reference the spousal attribution rules described in subsections 146(8.5) and (8.6) and paragraphs 146(8.7)(a) and (b) that would otherwise apply to spousal RRSP plans. For the PRPP context, references in those subsections and paragraphs to income inclusions under "146(8.3)" are replaced by references to PRPP income inclusions under "147.5(13.1)".

The effect is to provide the spousal attribution rules in the PRPP context with:

- an ordering rule for the purpose of determining the particular premium paid to a spousal RRSP that is required by subsection 147.5(13.1) to be included in computing the contributor's income;
- a rule to ensure that the attribution rules only apply once in respect of the same premium;
- avoidance of double taxation by allowing the taxpayer's spouse a deduction for amounts included in the taxpayer's income under subsection 147.5(13.1); and
- exceptions to the application of subsection 147.5(13.1) where the taxpayer has died or where the taxpayer or their spouse or common-law partner is a non-resident.

This amendment is deemed to have come into force on August 15, 2025.

Clause 50

Qualified Donees

This clause makes a number of amendments to section 149.1 related to the administrative rules for qualified donees. Unless otherwise noted, these changes generally come into force on royal assent.

Definitions

ITA
149.1(1)

"registered foreign charity"

The new definition "registered foreign charity" refers to a foreign charity that has been registered by the Minister pursuant to subsection 149.1(26).

This amendment is consequential to amendments to subsection 149.1(14.2), paragraph 168(1)(c), and subsections 188.1(6) and 188.2(2.1) and applies to taxation years that begin after April 16, 2024.

Exclusions

ITA
149.1(1.1)

Subsection 149.1(1.1) of the Act excludes certain amounts from being included in determining if a registered charity has satisfied its annual disbursement quota.

Existing paragraph 149.1(1.1)(d) provides that expenditures on administration and management of the charity shall not be considered to have been expended on charitable activities carried on by the organization for the purposes of satisfying its disbursement quota.

Paragraph 149.1(1.1)(d) is amended to add a reference to fundraising. This clarifies that expenditures on fundraising do not count towards satisfying an organization's disbursement quote.

Whether a particular expenditure relates to administration, management and fundraising will be a factual determination based on the activities and practices of the organization.

Designation as public foundation, etc.

ITA
149.1(6.3)

Subsection 149.1(6.3) authorizes the Minister to designate a charity as a charitable organization, private foundation or public foundation.

Currently, to make such a designation, the Minister must send a notice to the charity by registered mail.

Subsection 149.1(6.3) is amended to allow the Minister to send the notice electronically if the charity has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the notice is sent.

Information return

ITA
149.1(14.2)

New subsection 149.1(14.2) requires that each "registered foreign charity" file a public information return for the year in prescribed form and containing prescribed information. Information contained in a public information return will be disclosed to the public by the Minister pursuant to subsection 149.1(15).

The return must be filed within six months from the end of the organization's taxation year.

These changes apply to taxation years that begin after April 16, 2024.

Information may be communicated

ITA
149.1(15)

Subsection 149.1(15) authorizes the Minister to communicate certain information in respect of charities.

Paragraph 149.1(15)(a) provides that, notwithstanding section 241, the Minister may share prescribed information that is required to be contained in the public information return under subsections 149.1(14) and (14.1).

Paragraph 149.1(15)(a) is amended to also refer to a public information return required to be filed under new subsection 149.1(14.2).

Refusal to register

ITA
149.1(22)

Subsection 149.1(22) provides that the Minister may send a notice to a person of the decision to refuse the application of the person for registration as a registered charity, registered Canadian amateur athletic association, registered journalism organization or qualified donee.

Currently, if the Minister sends such a notice to a person, the Minister must do so by registered mail.

Subsection 149.1(22) is amended to allow the Minister to send the notice by regular mail or electronically if the person has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the notice is sent.

Subsection 149.1(22) is also shortened by replacing the reference to "a registered charity, registered Canadian amateur athletic association, registered journalism organization or qualified donee referred to in subparagraph (a)(i) or (iii) of the definition qualified donee in subsection (1)" by a reference to "a qualified donee referred to in subparagraph (a)(i) or (iii) or any of paragraphs (b) to (c) of the definition qualified donee in subsection (1)". This does not change its substance.

Annulment of registration

ITA
149.1(23)

Subsection 149.1(23) provides for notification that the registration of the person as a charity is annulled. The Minister may annul the registration of a charity if the person was registered in error or the person was a charity but has ceased to be a charity solely because of a change in law.

Currently, to make such a notification, the Minister must send a notice to the person by registered mail.

Subsection 149.1(23) is amended to allow the Minister to send the notice electronically if the person has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the notice is sent.

Foreign charities

ITA
149.1(26)

Subsection 149.1(26) provides the criteria for the registration of a foreign organization for the purposes of the definition qualified donee in subsection 149.1(1).

Currently, the period for which a foreign charity may be registered is 24 months.

Subsection 149.1(26) is amended to increase that period to 36 months, applicable to foreign charities registered after April 16, 2024.

Clause 51

Exception

ITA
150(1.1)(a)

Subsection 150(1) stipulates the tax return requirements and the filing dates for different categories of taxpayers. Subsection 150(1.1) sets out exceptions to subsection 150(1), when the filing of a tax return is not required.

Currently, paragraph 150(1.1)(a) only exempts a registered charity from the filing requirements under subsection 150(1) if it is also a corporation.

Paragraph 150(1.1)(a) is amended to exempt from the filing requirements under subsection 150(1) any taxpayer who was a registered charity throughout the year.

Automated filing – conditions

ITA
150(1.5)

Section 150 requires an individual to file a return of income for a taxation year in which tax is payable. A return must also be filed for an individual to receive many of the benefit and credit payments provided by the Act because such entitlements are determined based on an individual's net income. Consequently, low-income individuals who do not file a return do not receive benefit payments that are intended to support them.

To facilitate the payment of benefits to low-income individuals who would not otherwise file a return of income, new subsection 150(1.5) provides the Minister of National Revenue with the discretion to file a return for a taxation year of an individual (other than a trust or deceased individual) if the Minister is satisfied at the time of filing that the conditions in paragraphs (a) to (f) (described below) are met. Very generally, these paragraphs describe individuals with no federal or provincial tax payable for the year and all whose income, if any, is reported in an information return.

Not opted out of automated filing

Paragraph (a) provides that the individual has not notified the Minister not to file a return of income for the year on the individual's behalf.

At least one of the past three tax returns has not been filed

Paragraph (b) provides that at least one return of income for the prior three taxation years of the individual has not been filed. Thus, if the Minister has filed returns on behalf of an individual for the three immediately preceding taxation years, this paragraph would not be satisfied for the current taxation year. For example, if the Minister filed on behalf of Pascal for the 2026, 2027

and 2028 taxation years, the Minister would not be authorized to file a return for Pascal's 2029 taxation year due to paragraph (b) not being satisfied.

Return outstanding 45 days after filing-due date

Paragraph (c) provides that the individual has not filed a return for the year on or before the day that is 45 days after the filing-due date.

All income reported in an information return

Paragraph (d) provides that all the individual's income for the year, if any, was reported in an information return filed with the Minister.

Taxable income

Paragraph (e) provides that the individual's taxable income for the year is below the lower of either the federal basic personal amount plus the age amount and/or disability amount or the provincial equivalent of the basic personal amount plus the provincial equivalents of the age amount and/or disability amount, where applicable. In other words, the Minister must be satisfied that no federal or provincial income tax is payable by the individual for the year.

Notification of information for the year on file

Paragraph (f) provides that the Minister has notified the individual of the information for the year on file with the Minister, and the individual has not, within 90 days after the day on which the notice is sent by the Minister, either filed a return of income for the year, or notified the Minister of corrections to be made to the information on file with the Minister that would cause any of the other conditions in paragraphs (a) to (h) not to be satisfied.

Not a bankrupt in the year

Paragraph (g) provides that the individual has not become a bankrupt in the year.

Other conditions designed by the Minister

Paragraph (h) provides that the individual meets such other conditions as are designated by the Minister.

The Minister must only be satisfied that the conditions in paragraphs (a) to (h) are satisfied at the time of filing a return. Consequently, one or more of the conditions not being accurate; for example, an individual with unreported taxable income for a year (contrary to paragraph (d)) that causes the individual to have tax payable for the year (contrary to paragraph (e)), would not vitiate the Minister's authority to file the return of income for the year nor the validity of the return filed pursuant to this subsection.

This amendment applies to the 2025 and subsequent taxation years.

Automated filing - deemed filing

ITA
150(1.6)

New subsection 150(1.6) provides that a return of income for a taxation year of an individual filed by the Minister pursuant to subsection 150(1.5) is deemed to have been filed by the individual. Individuals for whom a return for a year is filed pursuant to subsection 150(1.5) have the same rights to object to an assessment or reassessment of tax payable for the year under subsection 165(1) as other taxpayers.

For greater certainty, subsection (1.6) also provides that any erroneous statement or omission in the return that is attributable to the individual's failure to notify the Minister, within the 90-day period described in paragraph 150(1.5)(f) or at any other time prior to the filing of the return, of any correction to be made to the information on file with the Minister is a misrepresentation made by the individual in filing the return or in supplying any information under the Act.

Consequently, the Minister may reassess any tax payable for the year after the normal reassessment period in respect of the year pursuant to subparagraph 152(4)(a)(i).

This amendment applies to the 2025 and subsequent taxation years.

Clause 52

Declaration

ITA
150.1(4)

Subsection 150.1(4) requires a person on whose behalf a return is filed electronically to complete an information return in prescribed form containing prescribed information, to keep a copy, and to give the signed original to the person filing the return.

Subsection (4) is amended to exclude individuals who have a return of income filed on their behalf by the Minister of National Revenue, under new subsection 150(1.5), from the requirement to complete an information return.

This amendment applies to the 2025 and subsequent taxation years.

Clause 53

Reassessment where certain deductions claimed

ITA
152(6)

Consequential to the enactment of subsections 126(2.211) and 128.1(8.1), subsection 152(6) is amended by removing the reference to subsection 126(2.21) in paragraph (f.1) and by repealing paragraph (f.2).

Clause 54

Withholding

ITA
153(1)(g)

Paragraph 153(1)(g) is amended consequential on the repeal of subsection 115(2.3), to remove the reference to that subsection.

Clause 55

Anti-avoidance rules

ITA
160(5)

The amount that a taxpayer is liable to pay in respect of the transfer of property from a non-arm's length tax debtor is determined under subsection 160(1). The Minister may assess the taxpayer for such a liability under subsection 160(2).

Subsection 160(1) applies in situations where:

- there has been a non-arm's length transfer of property, and
- the transferor had a pre-existing tax liability or a tax liability that arose in the year of the transfer.

If these conditions are met, the transferee is jointly and severally, or solidarily, liable in respect of amounts payable by the transferor under the Act, to the extent that the fair market value of the property transferred exceeded the value of the consideration given for the property at the time of the transfer.

Subsection 160(5) provides anti-avoidance rules to prevent planning which seeks to circumvent the application of section 160.

Paragraph 160(5)(a) addresses planning that attempts to circumvent the application of section 160 by avoiding the requirement that property be transferred between persons that do not deal at arm's length. Paragraph 160(5)(b) addresses planning that attempts to circumvent the application of section 160 by avoiding the requirement that the transferor have an existing tax debt owing in or in respect of the taxation year in which the property is transferred, or any preceding taxation year. Paragraph 160(5)(c) addresses planning that attempts to effectively avoid section

160 through a transaction or series of transactions that reduce the fair market value of consideration given for the property transferred in order to render all or a portion of a tax debt of the transferor uncollectible. The anti-avoidance rules in subsection 160(5) currently apply for the purposes of subsections 160(1) to (4).

Consequential on the introduction of the supplementary anti-avoidance rules in new subsections 160(6), (7) and (8), subsection 160(5) is amended to provide that it applies for the purposes of section 160.

This amendment applies in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

Deemed transfer – conditions

ITA
160(6)

New subsections 160(6) to (8) introduce supplementary anti-avoidance rules to strengthen the tax debt anti-avoidance rules of section 160. New subsection 160(6) provides the test for the application of the deemed transfer anti-avoidance rules in new subsection 160(7). The deemed transfer rules address circumstances where a tax debt avoidance planner acts as an intermediary or facilitator to enable the indirect transfer of property from a tax debtor to a non-arm's length party while attempting to avoid the operative requirement of section 160 that there be a transfer of property from a transferor to a non-arm's length transferee in order for section 160 to apply.

Subsection 160(6) provides that subsection 160(7) will apply in the following circumstances:

- a person (the "planner") has transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to a person (the "transferee") or a person not dealing at arm's length with the transferee, pursuant to the direction of, or with the concurrence of the transferee;
- another person (the "transferor") has transferred a property (the "particular property"), either directly or indirectly, by means of a trust or by any other means whatever, to the planner or any other person; and
- it is reasonable to conclude that one of the purposes for undertaking or arranging the transaction or series of transactions is to avoid joint and several, or solidary, liability of the transferee and transferor for an amount payable under the Act.

This amendment will apply in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

Deemed transfer

ITA
160(7)

New subsection 160(7) applies if the conditions set out in new subsection 160(6) are met. Where these conditions are met, the transferor will be deemed to have transferred the particular property to the transferee for the purposes of the tax debt avoidance rule in section 160. This will ensure that the tax debt avoidance rule applies in situations where property has been transferred from a tax debtor to a person and, as part of the same transaction or series, property has been received by a person that does not deal at arm's length with the tax debtor.

This amendment will apply in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

ITA
160(8)

As noted above, in many cases tax debt avoidance planning is facilitated by a planner who receives a significant fee that is effectively funded by a portion of the avoided tax debt. The courts have held that a taxpayer who engages in tax debt avoidance planning is normally not jointly and severally, or solidarily, liable for the portion of the tax debt that has effectively been retained by the planner as a fee. This remains the case even where the amount retained by the planner is moved offshore and out of the reach of the Canada Revenue Agency.

To further enhance the effectiveness of the tax debt anti-avoidance rule, new subsection 160(8) will provide that taxpayers who participate in tax debt avoidance planning will be jointly and severally, or solidarily, liable for the full amount of the avoided tax debt, including any portion that has effectively been retained by the planner. New subsection 160(8) provides that, for the purposes of determining joint and several or solidary liability for a tax debt, the consideration provided by a transferee is deemed to be nil if the conditions set out in subsection 160(8) are met.

Subsection 160(8) will apply to a transaction or series of transactions that is a "section 160 avoidance transaction" (as defined in subsection 160.01(1)) if

- the transaction or series of transactions is described in paragraph (a) or new paragraph (c) of the definition "section 160 avoidance transaction" (each of which includes purpose tests), or
- it is reasonable to conclude that one of the purposes for undertaking or arranging the transaction or series of transactions is to avoid joint or several, or solidary, liability of the transferee and transferor for an amount payable under the Act.

This amendment will apply in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

Clause 56

Definitions

ITA
160.01(1)

Subsection 160.01(1) provides definitions that apply for the purpose of section 160.01.

The definition “section 160 avoidance transaction” is relevant for the definition “section 160 avoidance planning”. The definition “section 160 avoidance transaction” is also relevant for the enhanced joint and several or solidary liability rule in new subsection 160(8).

A “section 160 avoidance transaction” is a transaction or series of transactions, in respect of which the condition in paragraph (a) or (b) of the definition is met.

Paragraph (a) refers to the conditions in paragraphs (5)(a) and (b). For more information see the commentary on those paragraphs. Paragraph (b) is relevant where subsection (5) applied to the transaction. In that case, it looks to whether the amount determined under subparagraph 160(5)(c)(ii) exceeds the amount determined under subparagraph 160(5)(c)(i).

Consequential on the introduction of the supplementary section 160 anti-avoidance rules in new subsections 160(6), (7) and (8), the definition “section 160 avoidance transaction” is amended by adding new paragraph (c), which provides that a section 160 avoidance transaction will include a transaction or series of transactions in respect of which subsection 160(7) applies. This expanded definition will be relevant for the purposes of the enhanced joint and several and solidary liability rule in new subsection 160(8).

The amendment will also be relevant for determining whether a taxpayer has engaged in section 160 avoidance planning. Subsection 160.01(2) provides for a penalty for a person who engages in, participates in, assents to or acquiesces in planning activity that they know is section 160 avoidance planning, or would reasonably be expected to know is section 160 avoidance planning, but for circumstances amounting to gross negligence.

This amendment will apply in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

The definition “transferee” in subsection 160.01(1) refers to a “transferee” as used in subsections 160(1) and (5). Consequential on the introduction of new subsection 160(7), the definition “transferee” in subsection 160.01(1) is amended to include a reference to subsection 160(7).

This amendment will apply in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

The definition “transferor” in subsection 160.01(1) refers to a “transferor” as used in subsections 160(1) and (5). Consequential on the introduction of new subsection 160(7), the definition “transferor” in subsection 160.01(1) is amended to include a reference to subsection 160(7).

This amendment will apply in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

Clause 57

False statements or omissions

ITA
163(2)

Subsection 163(2) imposes a penalty where a taxpayer knowingly, or in circumstances amounting to gross negligence, participates in or makes a false statement for the purposes of the Act. The penalty is determined by reference to the understatement of tax or the overstatement of amounts deemed to be paid on account of tax. The penalty is the greater of $100 and 50% of the tax attributable to the false statement or omission.

Subsection 163(2) is amended to add a reference to amounts deemed to be paid pursuant to subsection 122.92(3) (the multigenerational home renovation tax credit).

This amendment applies in respect of returns filed on or after August 12, 2024.

False statement or omission

ITA
163(5)(a)(ii)

Subparagraph 163(5)(a)(ii) provides for a penalty under certain circumstances for a failure to file a tax return in respect of a trust that is not subject to one of the exceptions listed in paragraphs 150(1.2)(a) to (o).

Subparagraph 163(5)(a)(ii) is amended to also provide for the application of that penalty for a failure to file such a return as and when required by the Act.

Clause 58

Notice of intention to revoke registration

ITA
168(1)

Subsection 168(1) describes the circumstances under which the Minister may give notice of the Minister’s intention to revoke the registration of certain qualified donees.

Currently, if the Minister gives such a notice, the Minister must do so by registered mail. Further, in respect of a failure to file an information return, the Minister may only give this notice to a qualified donee that is a registered charity, a registered Canadian amateur athletic association or registered journalism organization.

Subsection 168(1) is amended to allow the Minister to send the notice electronically if the person has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the notice is sent.

Paragraph 168(1)(c) is amended to permit the Minister to give notice to a registered foreign charity (as defined in amended subsection 149.1(1)) if it fails to file an information return.

Revocation of registration

ITA
168(2)

Where the Minister has notified a registered charity, Canadian amateur athletic association or registered journalism organization that the Minister proposes to revoke its registration, subsection 168(2) requires the Minister to publish a copy of the notice of revocation in the *Canada Gazette*.

Subsection 168(2) is amended to require publication now be made on an internet webpage of the Government of Canada. consequential to the amendment of subsection 168(1), to also refer to the time of sending of the notice for the purpose of determining when the notice must be published.

Also, new paragraph 168(2)(c) requires that the Minister maintain a permanent record of the notice and make the notice available to the public.

Objection to proposal or designation

ITA
168(4)

Subsection 168(4) provides that the objection process in respect of assessments under Part I also applies to certain notices of decisions of the Minister regarding certain qualified donees.

Consequential to the amendment to subsection 168(1), subsection 168(4) is amended to also refer to the day on which the notice was sent for the purpose of determining the deadline by which a person may serve on the Minister a written notice of objection.

Clause 59

Disposition of appeal on consent

ITA
169(3)

Subsection 169(3) allows the Minister of National Revenue to reassess tax, interest, penalties or other amounts payable by a taxpayer under the Act at any time, even if the normal reassessment

period has expired, if the taxpayer consents in writing to the reassessment and the reassessment is made for the purpose of disposing of an appeal under the Act.

Subsection 169(3) is amended to clarify that a third party can consent to a reassessment of tax, interest, penalties or other amounts payable under the Act, even if the normal reassessment period has expired, for the purpose of disposing of an appeal commenced by another taxpayer under the Act, or an appeal following from that appeal.

This amendment comes into force on royal assent.

Clause 60

Part IV

ITA
186(1)(b)

Paragraph 186(1)(b) is part of a set of rules that seek to prevent the use of private corporations to defer personal income tax on investment income.

A private corporation or subject corporation that receives a taxable dividend from a connected dividend payer (within the meaning assigned by subsection 186(4)) is subject to tax under Part IV based on the amount of the payer corporation's dividend refund. The Part IV tax payable by the recipient corporation corresponds to a proportion of the dividend refund of the dividend payer for its taxation year in which it paid the taxable dividend that the amount of the dividend received is of the total of all taxable dividends paid by the payer corporation in that year. The Part IV tax is in turn refundable to the recipient corporation upon payment of sufficient taxable dividends.

Under new subsection 129(1.3), a dividend refund which a dividend payer is otherwise entitled to receive for a taxation year during which it paid a taxable dividend to an affiliated corporation can be denied in certain circumstances involving staggered taxation year-ends; the dividend refund can be released in a subsequent taxation year of the dividend payer under new subsection 129(1.32).

Paragraph 186(1)(b) is amended consequential to the introduction of new subsections 129(1.3) to (1.32).

The consequential amendments to paragraph 186(1)(b) relate to the taxation year of the dividend payer in which a dividend refund is denied and to its subsequent taxation year in which the dividend refund is released. These consequential amendments seek to ensure that the interaction of subsection 186 with new subsections 129(1.3) to (1.32) does not result in double taxation under Part IV.

For the taxation year of the dividend payer in which it paid a taxable dividend and the corresponding dividend refund is denied under new subsection 129(1.3), that taxable dividend is excluded from subparagraph 186(1)(b)(i) and 186(1)(b)(ii) in respect of the affiliated dividend payee. Accordingly, an affiliated dividend payee is not subject to Part IV tax on a taxable dividend

received from a dividend payer where the matching dividend refund of the payer for the taxation year is denied by new subsection 129(1.3).

For a subsequent taxation year of the dividend payer in which a suspended dividend refund is released under new subsection 129(1.32), the opening words of paragraph 186(1)(b) are amended to exclude that dividend refund from the total amount of its dividend refund for that taxation year that is relevant to determine the Part IV tax of connected corporations on taxable dividends paid to them in that year. For example, if in a subsequent taxation year of a private corporation (after the application of subsection 129(1.3)), the private corporation earns active business income and the only dividend refund in respect of the year for the private corporation is obtained under new subsection 129(1.32), the private corporation could pay a taxable dividend to a connected corporation in that year on which the connected corporation would not be subject to Part IV tax in respect of the taxable dividend received.

The amendments to paragraph 186(1)(b) are deemed to have come into force on November 4, 2025.

Clause 61

Revocation tax

ITA
188(1.1)

Subsection 188(1.1) imposes a tax payable in respect of the revocation of the charity's registration.

Consequential to the most recent amendment to subsection 188(1.2), paragraph (c) of the description of B in subsection 188(1.1) is amended to replace the reference to “paragraph (1.2)(c)” with a reference to “subparagraph (1.2)(b)(iii)”.

Clause 62

Failure to file information returns

ITA
188.1(6)

Subsection 188.1(6) provides that a registered charity, registered Canadian amateur athletic association, or registered journalism organization is liable to a penalty equal to $500 if it fails to file a return for a taxation year as and when required by subsection 149.1(14) or (14.1).

Consequential to the enactment of new subsection 149.1(14.2), subsection 188.1(6) is amended to make liable to the penalty a registered foreign charity if it fails to file a return for a taxation year as and when required by new subsection 149.1(14.2).

Clause 63

Notice of suspension with assessment

ITA
188.2(1)

Subsection 188.2(1) provides for the suspension of a registered charity, registered Canadian amateur athletic association or registered journalism organization's tax-receipting privileges under certain circumstances for one year from the time that is seven days after the day of mailing of the notice of suspension by registered mail by the Minister.

Subsection 188.2(1) is amended to allow the Minister to send the notice electronically if the person has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the date the notice is sent.

Consequently, subsection 188.2(1) is also amended to refer to the day of sending of the notice for the purpose of determining the time from which the suspension takes effect.

Notice of suspension — general

ITA
188.2(2)

Subsection 188.2(2) provides for the suspension of certain qualified donees' tax-receipting privileges under certain circumstances for one year from the time that is seven days after the day of mailing of the notice of suspension by registered mail by the Minister.

Subsection 188.2(2) is amended to allow the Minister to send the notice electronically if the qualified donee has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the notice is sent.

Consequently, subsection 188.2(2) is also amended to refer to the day of sending of the notice for the purpose of determining the time from which the suspension takes effect.

Suspension – failure to report

ITA
188.2(2.1)

Subsection 188.2(2.1) provides for the suspension of certain qualified donees' tax-receipting privileges for one year from the time that is seven days after the day of mailing of the notice of suspension by registered mail by the Minister if the qualified donee fails to report information that is required to be filed annually under subsection 149.1(14) or (14.1).

Subsection 188.2(2.1) is amended to allow the Minister to send the notice electronically if the qualified donee has given the Minister the authorization to do so in accordance with new subsection 244(14.3) and has not revoked the authorization at least 30 days before the notice is sent.

Consequently, subsection 188.2(2.1) is also amended to refer to the day of sending of the notice for the purpose of determining the time from which the suspension takes effect.

Further, subsection 188.2(2.1) is amended so that it also applies in respect of a registered foreign charity (as defined by amended subsection 149.1(1)) if it fails to report information that is required to be filed annually under new subsection 149.1(14.2).

Effect of suspension

ITA
188.2(3)

Subsection 188.2(3) sets out the consequences of a suspension under subsection 188.2(1), (2) or (2.1). One of those consequences is that the qualified donee is deemed not to be a qualified donee for the purposes of the Act and no charitable donations deduction or tax credit may be claimed by any person who makes a gift to the donee during that period. Currently, this deeming rule takes effect seven days after the day on which the relevant notice is mailed.

Consequential to the amendment of subsections 188.2(1), (2), and (2.1), paragraph 188.2(3)(a) is amended to also refer to the date on which the notice is sent for the purpose of determining the time from which the deeming rule takes effect.

Clause 64

Provisions applicable to Part

ITA
189(8)

Subsection 189(8) provides that certain provisions of Part I relating to returns, assessments, payments and appeals are applicable in respect of amounts assessed under Part V and to a notice of suspension issued under subsection 188.2(1), (2) or (2.1).

Paragraphs 189(8)(a) and (b) provide some qualifications to the application by reference of those Part I provisions, including a qualification that a notice or application sent or served under certain provisions be addressed to the “Assistant Commissioner, Appeals Branch”.

Paragraph 189(8)(b) is amended to replace the reference to “Assistant Commissioner, Appeals Branch” with a reference to “Appeals Branch”. This is being done to provide more flexibility.

New paragraph 189(8)(c) similarly qualifies the application by reference of those Part I provisions by providing that a person may serve a notice of objection or make an application for an extension of time to file such a notice in any manner authorized by the Minister.

Clause 65

Definitions

ITA
204

Section 204 defines a number of terms that apply to deferred profit sharing plans (DPSPs).

"debt obligation"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the definition "debt obligation" in section 204 is repealed.

This amendment comes into force on January 1, 2027.

"qualified investment"

The definition "qualified investment" in section 204 sets out the types of property that a trust governed by a deferred profit sharing plan is permitted to hold. Moreover, the definitions "qualified investment" in each of subsections 146(1), 146.1(1), 146.3(1), 146.4(1) and 207.01(1) largely adopt the list of investments described by the definition in section 204.

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the qualified investment definition in section 204 is amended in several ways.

First, new paragraph (a) of the definition in section 204 now refers to paragraphs (a) to (g) of the revised definition "qualified investment" in subsection 207.01(1). This reference ensures that the types of property originally described in paragraphs (a) to (d) and (f) and (g), as well as paragraphs 4900(1)(b) and (c.1) of the *Income Tax Regulations*, remain qualified investments for DPSPs. Furthermore, by referencing paragraph (g) of the new qualified investment definition in 207.01(1), a DPSP will be permitted to hold certain commutable annuities as qualified investments as is currently the case for FHSAs, RDSPs, RESPs, RRIFs, RRSPs, and TFSAs.

Second, to replace paragraph (h) of the pre-2027 definition, new paragraph (b) of the definition references investments described in new Part L of the *Income Tax Regulations*. Investments described in section 5001, paragraphs 5002(a) to (c), and sections 5003 and 5004, which are prescribed investments for FHSAs, RDSPs, RESPs, RRIFs, RRSPs, and TFSAs, are generally qualified investments for DPSPs. However, the investments may not be shares of specified small business corporations, venture capital corporations, or specified cooperative corporations (described in new paragraphs 5002(d), (e) and (f), respectively), consistent with pre-2027 rules. Moreover, property that would not have been a qualified investment because of the involvement

of a connected person (e.g., certain debt obligations issued by a connected person are not qualified investments under Part XLIX of the *Income Tax Regulations*) remain non-qualified investments for a DPSP. This result is achieved by excluding property in paragraphs 5006(a) to (e) from being a non-qualified investment under paragraph (b) through reading references in section 5006 to "a connected person under the registered plan" as "a beneficiary or an employer under the deferred profit sharing plan or revoked plan and any person who does not deal at arm's length with that person". See the additional commentary on section 5006 of the *Income Tax Regulations*.

Third, paragraph (e) of the pre-2027 definition, relating to equity shares of the corporation that has contributed to the DPSP, becomes new paragraph (c) of the revised definition.

Fourth, new paragraph (d) permits certain annuities as qualified investments for a DPSP, effectively replacing former subsection 4900(3) of the *Income Tax Regulations*. These annuities cannot have a guaranteed term exceeding 15 years and payments must commence no later than the end of the year in which the employee turns 71.

These changes are summarized in the following table.

Pre-2027 Qualified Investments for DPSPs	**Post-2026 Qualified Investments for DPSPs**
ITA 204 "qualified investment" (a)	ITA 207.01(1) "qualified investment" (a)[1]
ITA 204 "qualified investment" (b)	ITA 207.01(1) "qualified investment" (c)(i)[1]
ITA 204 "qualified investment" (c)	ITA 207.01(1) "qualified investment" (c)(ii) to (iv)[1]
ITA 204 "qualified investment" (c.1)	ITA 207.01(1) "qualified investment" (c)(v) to (vii)[1]
ITA 204 "qualified investment" (d)	ITA 207.01(1) "qualified investment" (d)[1]
ITA 204 "qualified investment" (e)	ITA 204 "qualified investment" (c)
ITA 204 "qualified investment" (f)	ITA 207.01(1) "qualified investment" (b)[1]
ITA 204 "qualified investment" (g)	ITA 207.01(1) "qualified investment" (f)[1]
ITA 204 "qualified investment" (h)	*n.a.*
ITR 4900(1)(a), (e.1), (i.12)	*n.a.*
ITR 4900(1)(b)	ITA 207.01(1) "qualified investment" (e)[1]
ITR 4900(1)(c), (d), (d.2), (e), (f), (g), (h), (i), (i.1), (i.11), (i.13), (i.14), (i.2), (j), (j.1), (j.2), (q), (r), (t), (u), (v), (w)	ITR 5001, 5002(a) to (c), 5003(c), 5004(a) to (b), subject to 5006(a) to (e)[2]
ITR 4900(1)(c.1)	ITA 207.01(1) "qualified investment" (c)(viii)[1]
ITR 4900(3)	ITA 204 "qualified investment" (d)
ITR 4900(7)	*n.a.* (ITR see 5003(d) and 5004(c))

1. via ITA 204 "qualified investment" (a)
2. via ITA 204 "qualified investment" (b)

These amendments come into force on January 1, 2027.

Clause 66

Tax in Respect of Registered Investments

ITA
Part X.2

Effective January 1, 2027, Part X.2 of the Act, relating to registered investments, is repealed.

Prior to the repeal of Part X.2, effective from November 4, 2025, subsections 204.6(1), (2), and (3), which impose special taxes on registered investments holding certain property, are amended to exclude trusts described in new paragraphs 4900(1)(d.21) and (d.22) of the *Income Tax Regulations* from being subject to these taxes.

Clause 67

Definitions

ITA
204.8(1)

Subsection 204.8(1) defines terms for the purposes of penalties and taxes under Part X.3 relating to labour-sponsored venture capital corporations (LSVCCs) registered under that Part.

"reserve"

The definition "reserve" is defined as property described in any of paragraphs (a), (b), (c), (f), and (g) of the definition "qualified investment" in section 204.

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the reference in paragraph (a) of the definition "reserve" in subsection 204.8(1) to property described in the previous qualified investment definition in section 204 is updated to refer to the relevant paragraphs and subparagraphs of the revised definition in 207.01(1).

This amendment comes into force on January 1, 2027.

Clause 68

Definitions

ITA
204.94(1) and (2)

Section 204.94 generally charges a 20% tax on "accumulated income payments" from RESPs.

Amendments to subsection 204.94(1) and the preamble of subsection 204.94(2) will ensure that the tax will not apply to accumulated income payments made to a designated subscriber of an RESP.

See the additional commentary on amendments to section 146.1 that correspond to a Budget 2024 announcement to introduce changes to the *Canada Education Savings Act* to provide automatic enrolment in the Canada Learning Bond for eligible children.

Clause 69

Definitions

ITA
205(1)

Subsection 205(1) defines various terms that apply for the purposes of section 205 (the Part XI tax in respect of Advanced Life Deferred Annuities). The definition "excess ALDA transfer" is relevant to the determination of whether a taxpayer has a "cumulative excess amount" in respect of amounts transferred to an ALDA. The test for an excess ALDA transfer applies each time a transfer is made to an ALDA from a "transferor plan" (registered retirement savings plan, registered retirement income fund, deferred profit sharing plan, registered pension plan or pooled registered pension plan) under any of subsections 146(16) and 146.3(14.1) and paragraphs 147(19)(d), 147.3(1)(c) and 147.5(21)(c).

Variable C of the formula in that definition currently is computed as equal to property held for the individual's benefit under the transferor plan at the end of the prior year. The formula computes excess ALDA transfer on a plan-by-plan basis, such that a plan (or member account) never transfers more than 25% of its property to purchase an ALDA contract.

Variable C is amended in three ways. First, former paragraphs (a) and (b) are merged into paragraph (a) in a manner that the plan-by-plan test for the 25% transfer limit will apply to deferred profit sharing plans, registered pension plans and pooled registered pension plan transfers.

Second, former paragraphs (c) and (d) are merged into paragraph (b) and the 25% transfer limit (to purchase an ALDA contract) is done on a global basis taking into account total property of all RRSPs and RRIFs under which the pertinent individual is an annuitant.

Illustration of change to Variable C:

> *Assume that the ALDA dollar limit is $150,000 and that, apart from transfers to an ALDA, there are no fluctuations in the value of property. Assume there are no other accounts.*
> *Madeleine has RRSP A with a balance of $150,000 and RRSP B with a balance of $450,000.*

Madeleine makes a transfer of $150,000 from RRSP A to purchase an ALDA that Madeleine has entered into with an insurance company in Canada.

*Calculation under the **previous** Variable C:*

A = $150,000
B = 25% (C + D) - E = 25%(150,000+$0)-$0 = $37,500
A – B = $150,000 - $37,500 = $112,500.

Result: $112,500 excess ALDA transfer

*Calculation under the **new** Variable C:*

A = $150,000
B = 25% (C + D) - E = 25%(($150,000+$450,000) +$0) - $0 = $150,000
A – B = $150,000 - $150,000 = $0

Result: Madeleine does not have an excess ALDA transfer.

These two amendments are deemed to come into force on August 12, 2024.

Finally, consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), paragraph (b) is updated to reference certain commutable annuities described in paragraph (g) of the revised "qualified investment" definition in subsection 207.01(1).

This amendment comes into force on January 1, 2027.

Clause 70

Definitions

ITA
207.01(1)

Subsection 207.01(1) provides definitions for the purposes of Part XI.01 (as well as certain sections in Part I and Part XLIX of the *Income Tax Regulations*). Consequential to the replacement of Part XLIX with the introduction of new Part L of the Regulations, the preamble of subsection 207.01(1) is amended to refer to Part L instead of Part XLIX.

This amendment comes into force on January 1, 2027.

"controlling individual"

The definition "controlling individual" provides a common term for the holder, annuitant or subscriber of various registered savings plans, for the purpose of the application of taxes under Part XI.01 of the Act.

Paragraph (c) of that definition is amended to exempt an RESP subscriber that is a "designated subscriber". Accordingly, the tax provisions of Part XI.01 will not apply (neither to the promoter nor the subscriber) in respect of an RESP for which the subscriber is a designated subscriber. See the additional commentary on amendments to section 146.1 of the Act regarding modified registration conditions that apply to RESPs entered into between a designated subscriber and a promoter.

"excluded property"

The definition "excluded property" describes registered plan investments that are excluded from being prohibited investments for the plan that holds it. Paragraph (a) refers to certain insured mortgages described in paragraph 4900(1)(j.1) of the Regulations. Paragraph (b) provides that specific equity in certain investment vehicles during the 24-month period on start-up or wind-up is considered "excluded property" and therefore is not subject to the prohibited investment rules.

The definition "excluded property" is amended in two respects. First, consequential to the repeal of Part XLIX of the Regulations, the reference in paragraph (a) to 4900(1)(j.1) is updated to refer to new subparagraph 5001(h)(ii). Second, consequential to the repeal of Part X.2 of the Act, references to registered investments in paragraph (b) are removed.

These amendments come into force on January 1, 2027.

"qualified investment"

This definition is amended to become the principal qualified investment provision for six types of registered plans. In particular, amendments are made to various provisions in sections 146 (registered retirement savings plans), 146.1 (registered education savings plans), 146.3 (registered retirement income funds), 146.4 (registered disability savings plans) to reference the revised qualified investment definition in subsection 207.01(1). In conjunction, the definition of "qualified investment" in each of these four sections is repealed. Moreover, paragraph (a) of the revised qualified investment definition in section 204 (relating to DPSPs) refers to various paragraphs of the qualified investment definition in subsection 207.01(1) to ensure property remains a qualified investment for a DPSP under the revised definition. See the additional commentary for amendments to these sections.

Paragraphs (a) through (d) and (f) of the revised definition "qualified investment" in subsection 207.01(1) are intended to replicate the provisions under paragraphs (a), (b), (c), (c.1), (d), (f), and (g) of the pre-2027 qualified investment definition in section 204. The table of concordance below identifies the provision in the revised definition that replaces the corresponding provision in the pre-2027 definition.

Pre-2027 provision (section 204 "qualified investment")	**Amended provision (subsection 207.01(1) "qualified investment")**
Paragraph (a)	Paragraph (a)
Paragraph (b)	Subparagraph (c)(i)

Paragraph (c)	Subparagraphs (c)(ii) – (iv)
Paragraph (c.1)	Subparagraphs (c)(v) – (vii)
Paragraph (d)	Paragraph (d)
Paragraph (f)	Paragraph (b)
Paragraph (g)	Paragraph (f)

New subparagraph (c)(viii) of the revised definition "qualified investment" in subsection 207.01(1) describes bonds, debentures, notes, or similar obligations of public corporations (excluding mortgage investment corporations) as a qualified investment. Such obligations are qualified investments under paragraph 4900(1)(c.1) of the *Income Tax Regulations*. Likewise, new paragraph (e) of the revised definition "qualified investment" in subsection 207.01(1) describes shares of the capital stock of public corporations (excluding mortgage investment corporations) as a qualified investment. Such shares are qualified investments under paragraph 4900(1)(b) of the *Income Tax Regulations*.

Paragraph (g) of the revised definition "qualified investment" in subsection 207.01(1), describes certain commutable annuity contracts as qualified investments. It is intended to replace equivalent provisions in the former definitions of "qualified investment" in subsection 146(1) (paragraph (c.1)), subsection 146.1(1) (paragraph (c)), subsection 146.3(1) (paragraph (b.1)), subsection 146.4(1) (paragraph (b)), and subsection 207.01(1) (paragraph (b)).

Paragraphs (h) through (k) relate to specific registered plans:

- With respect to an RESP, paragraph (d) of the pre-2027 qualified investment definition in subsection 146.1(1) (relating to investments acquired by the trust before October 28, 1998) is replaced with paragraph (h) of the revised qualified investment definition in subsection 207.01(1).
- With respect to an RDSP, paragraph (c) of the pre-2027 qualified investment definition in subsection 146.4(1) (relating to certain locked-in annuities) is replaced with paragraph (i) of the revised qualified investment definition in subsection 207.01(1).
- With respect to a RRIF, paragraph (b.2) of the pre-2027 qualified investment definition in subsection 146.3(1) (relating to certain locked-in annuities) is replaced with paragraph (j) of the revised qualified investment definition in subsection 207.01(1).
- With respect to an RRSP, paragraphs (c) and (c.2) of the pre-2027 qualified investment definition in subsection 146(1) (relating to certain locked-in annuities) is replaced with paragraph (k) of the revised qualified investment definition in subsection 207.01(1).

Finally, paragraph (l) includes investments that are prescribed by regulation. Prescribed investments are outlined in new Part L of the *Income Tax Regulations*.

This amendment comes into force on January 1, 2027.

Exchange of property

ITA
207.01(12)

Subsections 207.01(12) and (13) provide transitional relief from the prohibited investment and advantage rules to non-cash property acquired by the trust in the course of a reorganization or exchange. One of the conditions is that the property acquired is, or would be if paragraph 4900(14)(b) of the *Income Tax Regulations* did not apply, a qualified investment for a trust governed by certain registered plans immediately after the exchange time.

Subsection 4900(14) of the *Income Tax Regulations* allows certain shares of small business corporations, venture capital corporations and cooperative corporations to be qualified investments provided they are not a prohibited investment at the time they are acquired by the plan trust (see paragraph 4900(14)(b)).

Consequential to the repeal of Part XLIX of the Regulations, the reference in paragraph 207.01(12)(c) to paragraph 4900(14)(b) is amended to instead directly state that the condition will be met if the property would be a qualified investment if it was not a prohibited investment at the time it was acquired by the exchanging trust.

This amendment comes into force on January 1, 2027.

Clause 71

Securities Lending Arrangements

ITR
207.04(7)

Subsection 207.04(7) ensures that rights to property received as consideration under certain securities lending arrangement are deemed not to be non-qualified investments.

Consequential to the revisions to the definition “qualified investment” in subsection 207.01(1), the references in paragraphs (a) and (f) of subsection 207.04(7) to property that is described by certain paragraphs of section 204 is updated to refer to the relevant paragraphs and subparagraphs of the revised qualified investment definition in 207.01(1).

These amendments come into force on January 1, 2027.

Clause 72

Definitions

ITR
207.5(1)

Subsection 207.5(1) contains the definitions that apply for the purposes of the Part XI.3 tax applicable to retirement compensation arrangements (RCA).

"excluded property"

First, subsection 207.5(1) is amended to add a new definition of "excluded property" that describes investments that are excluded from being "prohibited investments" for an RCA. The new definition incorporates by reference the definition of "excluded property" in subsection 207.01(1) that applies to seven registered plans (among them TFSAs and RRSPs), with appropriate modifications for RCAs (such as references to "specified beneficiary" in lieu of "controlling individual"). The types of excluded property for RCAs are substantially similar to those for registered plans except that the list of 8 types of registered investments is narrowed to four: mutual fund corporation, mutual fund trust, investment corporation and pooled funds described in paragraph 204.4(2)(a) of the Act.

This amendment is deemed to have come into force on August 12, 2024.

Second, consequential to the repeal of Part X.2 of the Act, the reference to "a trust described in paragraph 204.4(2)(a)" in the definition "excluded property" is removed.

This amendment comes into force on January 1, 2027.

"prohibited investment"

The definition of "prohibited investment" in subsection 207.5(1) is amended consequential to the new definition of "excluded property". Specifically, a reference to "prescribed" property is removed, thus "excluded property" will not be prescribed in the *Income Tax Regulations*.

This amendment is deemed to have come into force on August 12, 2024.

"specified arrangement"

Paragraph (a) of the definition of "specified arrangement" is amended to make it clearer that the benefits provided by the retirement compensation arrangement are supplemental to the benefits provided out of or under a registered pension plan, registered retirement savings plan, deferred profit sharing plan, pooled registered pension plan, or any combination thereof.

This amendment is deemed to come into force on March 28, 2023.

Clause 73

Definitions

ITA
211.6(1)

Subsection 211.6(1) contains the definitions that apply for purposes of the Part XII.4 (special tax on qualifying environmental trusts).

"excluded trust"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the reference in paragraph (d) and subparagraph (e)(i) of the definition "excluded trust" to property that is not described by certain paragraphs of section 204 is updated to refer to the relevant paragraphs and subparagraphs (as applicable) of the revised qualified investment definition in 207.01(1).

This amendment comes into force on January 1, 2027.

"prohibited investment"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the reference in paragraph (a) of the definition "prohibited investment" to property that is described by certain paragraphs of section 204 is updated to refer to the relevant paragraphs and subparagraphs (as applicable) of the revised qualified investment definition in 207.01(1).

This amendment comes into force on January 1, 2027.

Clause 74

Disposition of approved share

ITA
211.8(1)

Subsection 211.8(1) imposes a special tax under Part XII.5 upon the redemption of shares of a federally-registered labour sponsored venture capital corporation (LSVCC) under certain circumstances.

Subsection 211.8(1) is amended to replace the references to "labour-sponsored venture capital corporation" with references to "prescribed labour-sponsored venture capital corporation" (as that term is defined by amended section 6701 of the Regulations).

Clause 75

Payments to the International Olympic Committee and the International Paralympic Committee

ITA
212(17.1)

Subsection 212(17.1) provides an exemption from withholding tax under Part XIII with respect to amounts paid to the International Olympic Committee or the International Paralympic Committee in respect of the 2010 Olympic Winter Games or the 2010 Paralympic Winter Games.

As this provision is no longer relevant, it is repealed.

Clause 76

Waiver of penalty or interest

ITA
220(3.1)

Subsection 220(3.1) of the Act, applicable to penalties and interest in respect of the 1985 and subsequent taxation years, gives the Minister of National Revenue discretion to waive or cancel part or all of a penalty or interest that is payable under the Act.

Subsection 220(3.1) is amended, consequential upon the introduction of new subsection 231.7(10), to exclude a penalty under section 231.7 or any interest payable in respect of that penalty from its ambit. This avoids any redundancy with subsection 231.7(10) which gives the Minister the discretion to waive or cancel all or part of a section 231.7 penalty, and any related interest, if the Minister determines that the penalty is disproportionate or unfair.

This amendment comes into force on royal assent.

Date of late election, amended election or revocation

ITA
220(3.3)

Subsection 220(3.3) provides that a late election or an amended election permitted to be made pursuant to subsection 220(3.2) is deemed to have been made at the time the election was required to be made and that, in the case of an amended or revoked election, the original election is deemed never to have been made.

The French version of subsection 220(3.3) is amended to better align the English and French versions.

Clause 77

Definitions

ITA
231

Section 231 provides definitions for the purposes of sections 231.1 to 231.8, the provisions that set out the rules relating to the powers of the Canada Revenue Agency to audit and examine taxpayers' books and records.

Section 231 is amended to provide that the section also applies to new section 231.9, which permits the Minister to issue a notice of non-compliance to any person if the Minister determines that the person has not complied with their obligations under sections 231.1, 231.2 and 231.6.

This amendment comes into force on royal assent.

Clause 78

Information gathering

ITA
231.1(1)

Subsection 231.1(1) grants authorized persons, for any purpose related to the administration or enforcement of the Act, certain enumerated powers. This subsection is amended to confirm that these enumerated powers extend to listed international agreements or, for greater certainty, tax treaties with another country.

A "listed international agreement" is defined in subsection 248(1) to mean the *Convention on Mutual Administrative Assistance in Tax Matters* , concluded at Strasbourg on January 25, 1988, as amended from time to time by a protocol or other international instrument as ratified by Canada and a comprehensive tax information exchange agreement that Canada has entered into, and that has effect, in respect of another country or jurisdiction.

A "tax treaty" with a country is defined in subsection 248(1) to mean a comprehensive agreement or convention for the elimination of double taxation on income, between the Government of Canada and the government of the country, which has the force of law in Canada at that time. This subsection is further amended to make clear that any purpose related to the administration or enforcement of the Act includes the collection of any amount payable under the Act by any person.

ITA
231.1(1)(f)

Subsection 231.1(1) is also amended to add new paragraph (f) to the powers granted to authorized persons. New paragraph (f) confirms that an authorized person may require a taxpayer or any other person to provide and deliver any information or additional information including a return of income or a supplementary return, or any document. The authorized person may require a taxpayer or any other person to provide this additional information in a reasonable manner and within a reasonable period of time.

New paragraph 231.1(1)(f) is subject to new subsection 231.1(4), which limits the applicability of new paragraph 231.1(1)(f). This limitation arises in situations where information or documents relate to unnamed persons.

Not applicable to unnamed persons

ITA
231.1(4)

New subsection 231.1(4) limits the application of new paragraph 231.1(1)(f) if the information or document relates to one or more unnamed persons and an application under subsection 231.2(3) would have been required if the information or document had been sought under section 231.2. In this case, paragraph 231.1(1)(f) is inapplicable and the information or document would need to be sought under section 231.2.

This amendment comes into force on royal assent.

Clause 79

Requirement to provide documents or information

ITA
231.2(1)

Subsection 231.2(1) provides that, notwithstanding any other provision of the Act, the Minister of National Revenue may by notice require that any person provide information or any document for any purpose relating to the administration or enforcement of the Act, of a listed international agreement or, for greater certainty, of a tax treaty with another country. An exception applies if the information or document relates to an unnamed person or persons, in which case the procedure set out in subsections 231.1(2) to (6) must be followed.

Subsection 231.2(1) is amended to confirm that the Minister may by notice require that any person provide information or documents within such reasonable time and in such reasonable manner as is stipulated in the notice.

Judicial authorization

ITA
231.2(3)(b)

Subsection 231.2(3) provides that a judge, on an ex *parte application*, may authorize the Minister to impose a requirement on a third party subject to such conditions that the judge considers appropriate if the judge is satisfied that the unnamed person or group of persons is ascertainable and that the requirement is made to verify compliance with the Act.

Paragraphs 231.2(3) (b) to (d) are replaced by new paragraph (b), which confirms that a judge of the Federal Court may 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 if the judge is satisfied by information on oath that the requirement is made to either verify compliance by the person or the persons with any duty or obligation under this Act, or for a purpose related to the administration of a listed international agreement or, for greater certainty, a tax treaty with

another country. The terms "listed international agreement" and "tax treaty" are defined in subsection 248(1).

This amendment comes into force on royal assent.

Clause 80

Copies

ITA
231.5

Subsection 231.5(1) permits the making of copies of documents obtained in certain circumstances, and states that the copy made has the same probative force as the original document. This subsection also enables the making of a print-out of an electronic document and sets out that the print-out has the same probative force as the original document. Subsections 231.5(1) and (2) deal with unrelated subject matter and are therefore being reorganized into two separate sections. Existing subsection 231.5(1) is renumbered as section 231.5.

The text of subsection 231.5(1), as set out in new section 231.5, is amended to refer to a document that is seized, inspected, audited, examined or provided under section 231.6. Other than these changes, the text of subsection 231.5(1), as set out in new section 231.5, is unaltered. This amendment comes into force on royal assent.

Compliance

ITA
231.51

Subsection 231.5(2) prohibits a person from hindering, molesting or interfering with, or attempting to hinder, molest or interfere with, an official who is performing any act that the official is authorized under the Act to perform.

Existing subsection 231.5(2) is renumbered as section 231.51.

The text of former subsection 231.5(2), as set out in new section 231.51, is amended to provide that every person shall, unless the person is unable to do so, do everything that the person is required to do by sections 231.1 to 231.6. This amendment ensures that this provision applies to newly renumbered section 231.5 and section 231.6.

This amendment comes into force on royal assent.

Clause 81

Definition of *foreign-based information or document*

ITA
231.6(1)

Section 231.6 provides rules which enable the Minister to obtain foreign-based information or documentation that is necessary to permit a proper assessment for Canadian tax purposes. Subsection 231.6(1) sets out a definition of "foreign-based information or document" that applies for the purposes of this section as a whole.

Subsection 231.6(1) is amended to confirm that this definition of foreign-based information extends to any information or document that is available or located outside Canada and that may be relevant to the administration or enforcement of the Act, of a listed international agreement or, for greater certainty, of a tax treaty with another country. The terms "listed international agreement" and "tax treaty" are defined in subsection 248(1).

This subsection is further amended to make clear that any purpose related to the administration or enforcement of the Act includes the collection of any amount payable under the Act by any person.

Requirement to provide foreign-based information

ITA
231.6(2)

Under subsection 231.6(2), a person resident in Canada or a non-resident person carrying on business in Canada must provide, when required by notice of the Minister, any foreign-based information or document.

Subsection 231.6(2) is amended to provide that an authorized person may require a taxpayer or any other person to provide this additional information in such reasonable manner and within such reasonable period of time as is stipulated in the notice.

Notice

ITA
231.6(3)

Subsection 231.6(3) stipulates what must be set out in a notice referred to in subsection 231.6(2).

Paragraph 231.6(3)(a) specifies that a reasonable period of time of not less than 90 days must be provided for the production of the information or document. This paragraph is amended to clarify that this reasonable period of time must be not less than 90 days after the notice is sent or served.

Paragraph 231.6(3)(c) specifies that the notice must include the consequences of a failure to provide the information or documents requested within the period of time set out in the notice.

The French version of paragraph 231.6(3)(c) is amended to better align the English and French versions.

Powers on review

ITA
231.6(5)

Subsection 231.6(5) specifies the determinations that may be made by a judge on hearing an application under subsection 231.6(4) in respect of a requirement.

Subsection 231.6(5) is amended to provide that a judge may either confirm the requirement under paragraph (a) or, pursuant to new paragraph (b), vary or set aside the requirement if they determine that the requirement was not reasonable.

New paragraph (b) replaces existing paragraphs (b) and (c).

Unreasonableness

ITA
231.6(6)

Subsection 231.6(6) contains a limitation in determining the reasonableness of a requirement for the purposes of current paragraph 231.6(5)(c), which sets out the powers of a judge on hearing an application for review under subsection 231.6(4). A requirement is not to be considered unreasonable where the foreign-based information or document being sought is under the control of or available to a related non-resident person merely because that person is not controlled by the person provided with the notice under subsection 231.6(2).

New paragraph 231.6(5)(b) replaces existing paragraphs (b) and (c). As such, the reference to paragraph 231.6(5)(c) in subsection 231.6(6) is changed to refer to new paragraph 231.6(5)(b).

Time period not to count

ITA
231.6(7)

Subsection 231.6(7) provides that the period of time that elapses between the application for review and its final disposition does not count toward the six-year statutory limit for making tax assessments relating to foreign transactions between non-arm's length taxpayers under subparagraph 152(4)(b)(iii), nor in the time permitted for the production of the information or document.

Consequential on the addition of new paragraph 231.8(1)(c), which brings section 231.6 within the ambit of section 231.8, subsection 231.6(7) is repealed.

Consequence of failure

ITA
231.6(8)

Subsection 231.6(8) sets out the consequences to a person of failing to comply with a notice sent or served under section 231.6. Failure to provide substantially all information or documents required may result in a prohibition on the introduction into evidence of any such information or document in a civil proceeding relating to the administration or enforcement of the Act.

This subsection is amended to confirm that the prohibition on the introduction into evidence of any such information or document applies to a civil proceeding which relates to the administration or enforcement of the Act, a listed international agreement or, for greater certainty, a tax treaty with another country. The terms "listed international agreement" and "tax treaty" are defined in subsection 248(1).

This amendment comes into force on royal assent.

Clause 82

Compliance order

ITA
231.7(1)

Section 231.7 provides a means of enforcing compliance with sections 231.1 and 231.2. If a person has failed to comply, subsection 231.7(1) allows the Minister of National Revenue to seek, by way of summary application, a court order requiring the person to provide the access, assistance, information or document sought under section 231.1 or 231.2.

The preamble of subsection 231.7(1) is amended to provide that a court order may be sought in order to obtain any access, information or document sought by the Minister under section 231.6, in addition to under sections 231.1 and 231.2. This subsection is further amended to confirm that a court may order a person to answer all questions either orally or in writing as required by paragraph 231.1(1)(d).

Paragraph 231.7(1)(a) is amended to add two new subparagraphs.

- New subparagraph (a)(i) includes language from current paragraph (a), except that it now includes a reference to section 231.6. For a court order to be issued under this section, a judge must be satisfied that a person was required under section 231.1, 231.2 or 231.6 to provide the access, assistance, information or document and did not do so.

- New subparagraph (a)(ii) is added to confirm the court's authority to order a person to answer all questions either orally or in writing as required by paragraph 231.1(1)(d). For a court order to be issued under this section, a judge must be satisfied that a person was

required under paragraph 231.1(1)(d) to answer questions either orally or in writing. and did not do so.

Paragraph 231.7(1)(b) is amended to refer to "an answer to a question." A judge must be satisfied, in the case of information, a document, or an *answer to a question*, that the information, document or answer is not protected from disclosure by solicitor-client privilege. As this paragraph no longer includes a reference to section 232, the scope of solicitor-client privilege is to be determined in accordance with case law.

Penalties

ITA
231.7(6)

New subsection 231.7(6) is added to provide that if an order has been made by a judge under subsection (1) with respect to a taxpayer's failure to comply with a requirement under section 231.1, 231.2 or 231.6 in respect of a taxation year of the taxpayer, the taxpayer is liable to a penalty of 10% of the aggregate amount of tax payable by the taxpayer under this Act for each taxation year of the taxpayer to which the order relates.

New subsection 231.7(6) only applies if the order relates to a taxpayer's failure to comply with a requirement in respect of a taxation year of the taxpayer. As such, the penalty does not apply if an order is obtained in respect of a person's failure to provide access, assistance, information or a document in respect of the taxation year of another taxpayer. In other words, the penalty is not applicable in the context of a third-party request for information.

This penalty applies in addition to any penalty otherwise provided, such as a penalty under new section 231.9.

Penalty does not apply

ITA
231.7(7)

New subsection 231.7(7) is added to provide that a penalty under subsection (6) may not be imposed upon a taxpayer in specified circumstances.

Paragraph 231.7(7)(a) stipulates that a penalty under subsection (6) may not be imposed upon a taxpayer in respect of their failure to comply with a requirement to provide information, or documents or to answer questions if one of the reasons for not complying with the requirement was the taxpayer's reasonable belief that the information, documents or answers were protected from disclosure from solicitor-client privilege. As such, if it is ultimately determined that privilege did not exist, but that there was a reasonable belief that it did, no penalty under subsection (6) would be imposed.

Paragraph 231.7(7) (b) stipulates that a penalty under subsection (6) may not be imposed upon a taxpayer if the amount of tax payable by the taxpayer under the Act for each taxation year to which the order under subsection (1) relates is less than $50,000.

Make application at any time

ITA
231.7(8)

New subsection 231.7(8) is added to make clear that the Minister may apply for a compliance order under subsection 231.7(1) before or after sending a notice described under subsection 231.9(1).

Assessment

ITA
231.7(9)

New subsection 231.7(9) permits the Minister of National Revenue to assess the penalty provided for under subsection (6) and provides that the administrative provisions of Division I and J will apply, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

Requirement to vacate or vary assessment

ITA
231.7(10)

New subsection 231.7(10) provides that if the Minister National Revenue determines that a penalty imposed under subsection 231.1(6) would be disproportionate or unfair, the Minister shall waive or cancel all or part of the penalty (and any related interest) that the Minister determines is appropriate having regard to all the circumstances.

This subsection also provides that despite subsections 152(4) to (5), any assessment of the penalty and interest payable shall be made that is necessary to take into account the cancellation of all or part of the penalty or interest.

This amendment comes into force on royal assent.

Clause 83

Time period not to count

ITA
231.8(1)

Section 231.8 provides that the period of time that elapses between the filing of the application for review of a requirement for information, or the filing of a notice of appearance (or otherwise challenging the application for a compliance order), and the time either the application for judicial review or the application to obtain the compliance order is finally disposed of, as the case may be, does not count toward the statutory limit for making tax assessments.

Section 231.8 is renumbered as subsection 231.8(1) and is amended as follows.

- New paragraph (a) is added to expand its application to section 231.1. This paragraph provides that if a taxpayer, or a person that does not deal at arm's length with the taxpayer, is required to do something under subsection 231.1(1) in respect of the taxation year of the taxpayer, 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 may be made for a taxation year of a taxpayer under subsection 152(4).

- Existing paragraph (a) is renumbered as new paragraph (b). The text of new paragraph (b) is also amended to expand its application to a person that does not deal at arm's length with the taxpayer. New paragraph (b) provides that if a taxpayer, or a person that does not deal at arm's length with the taxpayer, is sent or served with a notice of a requirement under subsection 231.2(1) in respect of the taxation year of the taxpayer, the period of time between the day on which an application for judicial review 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 may be made for a taxation year of the taxpayer under subsection 152(4).

- New paragraph (c) is added to expand its application to section 231.6. This new paragraph provides that if a taxpayer, or a person that does not deal at arm's length with the taxpayer, is sent or served with a notice of requirement under subsection 231.6(2) in respect of the taxation year of the taxpayer, the period of time between the day on which the taxpayer or the non-arm's length person applies to a judge for review under subsection 231.6(4) in respect of the requirement 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 for a taxation year of a taxpayer under subsection 152(4).

- Existing paragraph (b) is renumbered as new paragraph (d). The text of new paragraph (d) is also amended to expand its application to a person that does not deal at arm's length with the taxpayer. The text of new paragraph (d) is amended to provide that if an application is commenced by the Minister under subsection 231.7(1) to order the taxpayer or a person that does not deal at arm's length with the taxpayer to provide any access, assistance, information or document in respect of the taxation year of the taxpayer, the period of time between the day on which the taxpayer or non-arm's length 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 for a taxation year of a taxpayer under subsection 152(4).

- New paragraph (e) is added, to expand its application to new section 231.9. This new paragraph provides that if the taxpayer or a person that does not deal at arm's length with the taxpayer, is sent or served with a notice of non-compliance under subsection 231.9(1) in respect of the taxation year of the taxpayer, the period of time that the notice of non-compliance is outstanding is not to be counted in the computation of the period of time within which an assessment may be made for a taxation year of a taxpayer under subsection 152(4). New subsection 231.9(12) provides that, for the purposes of this paragraph and subsection 231.9(13), a notice of non-compliance is outstanding from the day that it is sent to, or served on, the person until the day that the person has complied, or has done everything reasonably required to comply, with each requirement or notice in respect of which the notice of noncompliance was issued. However, subsection 231.9(12) is subject to subsection 231.9(11), which provides that if a notice of non-compliance is vacated (by the Minister under subsection 231.9(6) or by a judge under subsection 231.9(10)), it is deemed to have never been issued.

- New paragraph (f) is added, which applies if a judge has, pursuant to subsection 231.9(10), vacated a notice of non-compliance sent to, or served on, the taxpayer or a person that does not deal at arm's length with the taxpayer in respect of the taxation year of the taxpayer. In such situations, the period of time between the day on which the taxpayer or the non-arm's length person applies to a judge for review under subsection 231.9(9) 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 for a taxation year of a taxpayer under subsection 152(4). Further, the period of time that elapses between the filing of an application to a judge under subsection 231.9(9) and the time that application is finally disposed of does not count toward the statutory limit for making tax assessments pursuant to the reference to this paragraph (f) in new subsection 231.9(11).

When finally disposed of

ITA
231.8(2)

Each of paragraphs 231.8(1)(a) to (d) and (f) refer to "the day on which the application is finally disposed of". New subsection 231.8(2) provides that, for the purposes of subsection (1), an application is finally disposed of when the application is disposed of and the time to appeal the application has expired and, in case of an appeal, when the appeal and any further appeal is disposed of or the time for filing any further appeal has expired.

This amendment comes into force on royal assent.

Overview

ITA
231.9

New section 231.9, which provides an alternative means of enforcing compliance with sections 231.1, 231.2 and 231.6, permits the Minister to issue a notice of non-compliance to any person who has failed to meet their obligations under these sections.
These amendments come into force on royal assent.

Notice of non-compliance

ITA
231.9(1)

Subject to new subsection 231.9(2), new subsection 231.9(1) enables the Minister to send to or serve on a person, in accordance with new subsection 231.9(3), a notice of non-compliance, at any time, if the Minister determines that they have not met their obligations, in full or in part, with respect to a requirement or notice to provide information, foreign-based information, returns, documents or reasonable assistance under section 231.1, 231.2 or 231.6.

Unrelated person requirements

ITA
231.9(2)

New subsection 231.9(2) sets out certain limitations upon the Minister's ability to send or serve on a person (referred to in this subsection as the "third party") a notice described under subsection (1) in respect of a requirement or notice (in this subsection referred to as the "unrelated person requirement").

- Subparagraph (a)(i) provides that the Minister must not send or serve an unrelated person requirement which requires the third party to provide information or any document relating to one or more other persons that are not related to the third party. Notices under subsection 231.9(1), however, may be sent to or served on a third party in respect of persons related to the third party.

- Subparagraph (a)(ii) provides that the Minister must not send or serve an unrelated person requirement described in subsection 231.2(2). That subsection requires that the authorization of a judge must first be obtained under subsection 231.2(3) before a requirement under subsection 231.2(1) may be imposed upon a third party.

Paragraph (b) further provides that the Minister must not send or serve on a third party a notice described under subsection (1) in in respect of an unrelated person requirement if a compliance order has not been made by a judge under subsection 231.7(1) in respect of the unrelated person requirement.

Contents of notice of non-compliance

ITA
231.9(3)

New subsection 231.9(3) provides that a notice of non-compliance issued under subsection (1) must set out, in respect of each taxation year of the taxpayer under review, the manner in which the person that has been sent or served with the notice of non-compliance has failed to comply with a requirement or notice under section 231.1, 231.2 or 231.6.

Notice

ITA
231.9(4)

New subsection 231.9(4) specifies that a notice of non-compliance may be served personally, by registered or certified mail, or sent electronically to a bank or credit union that has provided written consent to receive notices of non-compliance electronically.

Request for review

ITA
231.9(5)

New subsection 231.9(5) provides that a person sent or served with a notice of non-compliance may, within 90 days after the day on which the notice of non-compliance is sent or served, request, in writing to the Minister, that the notice of non-compliance be reviewed and make a representation or submission to the Minister in that regard.

Minister's review

ITA
231.9(6)

New subsection 231.9(6) provides that within 180 days from the date of receipt by the Minister of a request for review under subsection 231.9(5), the Minister shall confirm, vary or vacate the notice of non-compliance, and notify the person in writing of the Minister's decision.

When required to set aside

ITA
231.9(7)

New subsection 231.9(7) provides that a notice of non-compliance must be vacated by the Minister under subsection 231.9(6) if the Minister determines that it was unreasonable to issue the notice of non-compliance, or that the person had, prior to the issuance of the notice, done

everything reasonably necessary to comply with each requirement or notice in respect of which the notice of non-compliance was issued.

Notice deemed vacated

ITA
231.9(8)

New subsection 231.9(8) provides that if a person has made a request for review to the Minister under subsection (5), the notice of non-compliance sent or served under subsection (1) is deemed to be vacated under subsection (6) if the Minister has not notified the person in writing of the Minister's decision to confirm, vary or vacate that notice of non-compliance within 180 days from the date of receipt of the request.

Application for review of decision

ITA
231.9(9)

New subsection 231.9(9) provides that a person may, within 90 days after the day on which the person is notified of the Minister's decision under subsection (6), apply to a judge for a review of that decision.

Powers on review

ITA
231.9(10)

New subsection 231.9(10) provides that on hearing an application for review of a decision submitted under subsection 231.9(9), a judge may confirm the decision, or vary or vacate the decision, if they determine that the Minister's decision was not reasonable.

When notice vacated

ITA
231.9(11)

New subsection 231.9(11) provides that if a notice of non-compliance is vacated by the Minister under subsection (6), deemed to be vacated by the Minister under subsection (8), or vacated by a judge under subsection (10), the notice is deemed to have never been sent or served. This means that no penalty would be applicable under subsection (13), and the limitation period would not be stopped under paragraph 231.8(1)(e), where a notice of non-compliance is ultimately vacated.

However, new subsection 231.9(11) provides that it does not apply for the purpose of new paragraph 231.8(1)(f). Therefore, the period of time that elapses between the filing of an

application to a judge under subsection 231.9(9) and the time that application is finally disposed of does not count toward the time limit for making tax assessments under subsection 152(4).

When notice outstanding

ITA
231.9(12)

New subsection 231.9(12) sets out a rule that determines when a notice of non-compliance will be outstanding for the purposes of the application of subsection (13) and paragraph 231.8(1)(e).

In these situations, a notice of non-compliance is considered to be outstanding beginning on the day that it is sent to, or served on, a person until the day on which the person has, to the satisfaction of the Minister, complied or demonstrated that they have done everything reasonably necessary to comply, with each requirement or notice in respect of which the notice of noncompliance was issued. However, this rule is subject to subsection (11) which provides that if a notice of non-compliance is vacated by the Minister under subsection (6), deemed to be vacated by the Minister under subsection (8), or a judge under subsection (10), the notice is deemed to have never been issued.

Penalty

ITA
231.9(13)

New subsection 231.9(13) provides that a person sent or served with a notice of non-compliance is liable to a penalty of $50 for each day the notice of non-compliance is outstanding, to a maximum of $25,000.

Reasonable belief – privileged

ITA
231.9(14)

New subsection 231.9(14) provides that no person sent or served with a notice of non-compliance in respect of a requirement or notice to provide information, documents or to answer questions under subsection (1) is liable to a penalty if one of the reasons for the person not complying with the requirement or notice was their reasonable belief that the information, documents or answers were protected from disclosure by solicitor-client privilege.

Assessment

ITA
231.9(15)

New subsection 231.9(15) empowers the Minister of National Revenue to assess the penalty provided for under subsection (13) and provides that the administrative provisions of Division I and J will apply, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

This amendment comes into force on royal assent.

Clause 84

Filing information on foreign trusts

ITA
233.2(4)

Under subsection 233.2(4), reporting will generally be required for a taxation year of a person if the person is a "contributor", "connected contributor" or "resident contributor" to a trust that is non-resident at a "specified time" in the taxation year, of the trust, that ends in that taxation year of the taxpayer. Subparagraph 233.2(4)(c)(ii) sets out a list of persons for whom reporting obligations are not imposed.

Consequential to the repeal of Part X.2 of the Act, clause (E), referencing registered investments, is repealed and the reference to clause (E) in clause (F) is removed.

This amendment comes into force on January 1, 2027.

Clause 85

Definitions

ITA
233.3(1)

Subsection 233.3(1) defines a number of terms for the purpose of section 233.3.

Consequential to the repeal of Part X.2 of the Act, the definition "specified Canadian entity" is amended to remove the reference to a registered investment by repealing subparagraph (a)(vii) of the definition and revising subparagraph (a)(viii) to no longer refer to repealed subparagraph (a)(vii).

These amendments come into force on January 1, 2027.

Clause 86

Where taxpayer information may be disclosed

ITA

241(4)

Section 241 prohibits the use or communication of taxpayer information except as authorized. Subsection 241(4) permits a government official to communicate taxpayer information for limited purposes.

Subparagraphs (d)(vii.1) and (d)(vii.5) provide that taxpayer information may be disclosed to an official for the purposes of the administration and enforcement of the *Canada Education Savings Act* and of the *Canada Disability Savings Act* respectively.

These subparagraphs are amended to provide that taxpayer information may similarly be disclosed for the purposes of the evaluation or formulation of policy for the relevant statute.

Also, the English version of subparagraph (l)(ii) is amended by capitalizing the term "Aboriginal" in that provision.

Paragraph 241(4)(u) authorizes the communication of certain taxpayer information to an official of the Department of Industry, solely for the purpose of the verifying and validating data required to be filed by certain private corporations under section 21.21 of the *Canada Business Corporations Act* in relation to the corporate beneficial ownership registry. Specifically, the information that may be provided under paragraph (u) is information on shareholdings and corporate ownership structures of *private corporations* (as defined in subsection 89(1) of the *Income Tax Act*) reported to the Canada Revenue Agency through schedules 9 and 50 of the T2 Corporation Income Tax Return.

Paragraph 241(4)(u) is amended to permit the use or communication of taxpayer information on shareholdings and corporate structures of corporations the shares of which are not listed on a designated stock exchange (instead of the current requirement that corporations are "private corporations"). This amendment is made to better align the scope of information that can be communicated with the purpose of verifying and validating corporate beneficial ownership information provided under the *Canada Business Corporations Act.* In particular, this would allow for the sharing of information related to subsidiaries of public corporations.

This amendment comes into force on royal assent.

Definitions

ITA
241(10)

"aboriginal government"

The English version of that definition is amended by capitalizing the term "Aboriginal".

"government entity"

The English version of paragraph (c) of that definition is amended by capitalizing the term "Aboriginal".

Clause 87

Electronic notice – qualified donees

ITA
244(14.3)

New subsection 244(14.3) provides an alternative to the default method of delivering certain notices to qualified donees (or to a person who has been refused registration as a qualified donee) who use the CRA's My Business Account or My Trust Account services.

New subsection 244(14.3) provides that certain notices that refer to the business number, trust account number or registration number of a person are presumed to be sent and received by the person on the date that they are posted in the secure electronic account (e.g., My Business Account or My Trust Account) in respect of the number.

This presumption only applies to the extent that the person has authorized that these notices be made available in that manner and has not revoked that authorization at least 30 days prior to the date the notice is posted in the account.

Clause 88

Definitions

ITA
248(1)

"eligible relocation"

The definition "eligible relocation" in subsection 248(1) applies for the purpose of the deduction of expenses under section 62 in respect of a move from an "old residence" to a "new residence".

The French version of that definition is amended to better align the English and French versions.

"prescribed"

The definition "prescribed" in subsection 248(1) is amended by adding paragraph (a.2) to extend its application to the manner of applying for and amending the registration of a plan or arrangement described in Division G. The prescribed manner for registration and amendments will be the manner authorized by the Minister of National Revenue.

This amendment comes into force on royal assent.

"registered foreign charity"

Subsection 248(1) is amended to add the definition "registered foreign charity", so that the definition of that term in amended subsection 149.1(1) applies for the purposes of the Act.

"registered investment"

Consequential to the repeal of Part X.2 of the Act, the definition "registered investment" in subsection 248(1) is repealed.

This amendment comes into force on January 1, 2027.

Non-arm's length transaction

ITA
248(36)

Subsection 248(35) deems the fair market value of a donated property under certain circumstances to be equal to certain amounts specified in subsection 248(36).

Subsection 248(36) is amended to clarify that, for the purpose of applying subsection 248(35) to the taxpayer, in the case of a life insurance policy in respect of which the taxpayer is a policyholder, the adjusted cost basis (as defined in subsection 148(9)) of the property immediately before it is donated is deemed to be the least of certain specified amounts which are determined in reference to adjusted cost basis (as defined in subsection 148(9)).

This amendment comes into force on royal assent.

Clause 89

Filing and other deadlines

ITR
251.2(7)

Subsection 251.2(7) applies to various deadlines of a trust that is subject to a loss restriction event and, as a result of which, paragraph 249(4)(a) applies to deem the trust's taxation year (the "pre-LRE year") to end before the loss restriction event.

Consequential to the repeal of Part X.2 of the Act, paragraph 251.2(7)(d) is repealed.

This amendment comes into force on January 1, 2027.

Clause 90

Definitions

ITA
259(5)

Section 259 provides, for specified provisions of the Act, a "look-through" rule that applies where a registered plan trust acquires units of a "qualified trust". Subsection 259(5) provides various definition for the purposes of section 259.

"designated provisions"

The definition "designated provisions" in subsection 259(5) is first amended by adding reference to section 146.6 (relating to FHSAs). Then, consequential to the repeal of Part X.2 of the Act, the definition is amended to remove the reference to Part X.2.

The first amendment is deemed to come into force on April 1, 2023 (the date FHSAs came into force generally). The second amendment comes into force on January 1, 2027.

"qualified trust"

The definition "qualified trust" in subsection 259(5) is amended consequential to the repeal of Part X.2 of the Act to remove the reference to a registered investment.

This amendment comes into force on January 1, 2027.

"specified taxpayer"

The definition "specified taxpayer" in subsection 259(5) is first amended by adding reference to paragraph 149(1)(u.4) (relating to FHSAs). Then, consequential to the repeal of Part X.2 of the Act, the definition "specified taxpayer" in subsection 259(5) is updated to remove the reference to a registered investment.

The first amendment is deemed to come into force on April 1, 2023 (the date FHSAs came into force generally). The second amendment comes into force on January 1, 2027.

Clause 91

Common Reporting Standard

This Part is amended based on the amendments to the *Common Reporting Standard* set out in the *Standard for Automatic Exchange of Financial Account Information in Tax Matters*, as amended and approved by the Council of the Organisation for Economic Co-operation and Development (OECD) in June 2023, which principally resulted from the adoption of the new *Crypto-Asset Reporting Framework*. In particular, the amendments ensure that this Part applies to certain electronic money products and central bank digital currencies as well as various forms of investments in crypto-assets.

These amendments generally apply to the 2027 and subsequent calendar years.

Definitions

ITA
270(1)

"2012 FATF recommendations"

The "2012 FATF recommendations" mean the *Financial Action Task Force Recommendations — International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, adopted in February 2012 and as amended from time to time.

This definition is added for ease of reference as these recommendations are referred to throughout this Part.

"ACRS account"

An "ACRS account" is an account that is treated as a financial account solely as a result of the amendments made to this Part to implement the amendments to the Common Reporting Standard (ACRS) set out in the *Standard for Automatic Exchange of Financial Account Information in Tax Matters* as amended by the Council of the OECD in June 2023.

An ACRS account refers to both:

- an account that existed prior to January 1, 2027 but was not treated as a financial account under this Part prior to that date; and
- an account opened on or after that date that would not, but for the amendments in this Part implementing the ACRS, have been considered a financial account.

"anti-money laundering and know your customer procedures"* or *"AML/KYC procedures"

The French version of this definition is amended to better align the French and English versions.

"central bank digital currency"

A "central bank digital currency" is any digital fiat currency issued by a central bank.

This new definition is relevant for the purposes of applying several new and amended definitions in this subsection.

"controlling persons"

The "controlling persons" in respect of an entity are the natural persons (i.e., individuals other than trusts) who exercise control over the entity, and include

- in the case of a trust,
    - its settlors,

    - its trustees,
    - its protectors (if any),
    - its beneficiaries (for this purpose, a discretionary beneficiary of a trust will only be considered a beneficiary of the trust in a calendar year if a distribution has been paid or made payable to the discretionary beneficiary in the calendar year), and
    - any other natural persons exercising ultimate effective control over the trust; and
- in the case of a legal arrangement other than a trust, persons in equivalent or similar positions to those described above.

Consequential to the enactment of the new definition "2012 FATF recommendations", this definition is amended to amend the reference to those recommendations in the definition.

"crypto-asset"

The term "crypto-asset" has the same meaning as in subsection 296(1). For more information, see the commentary to the definition in that subsection.

This new definition is relevant for the purposes of applying several new and amended definitions in this subsection.

"depository account"

A "depository account" includes

- any commercial, chequing, savings, time or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business; and
- an amount held by an insurance company under a guaranteed investment contract or similar agreement to pay or credit interest on the contract.

Paragraph (a) of that definition is amended by replacing the reference to "a financial institution in the ordinary course of a banking or similar business" with a reference to "depository institution".

The definition is also amended to provide that a "depository account" also includes

- an account or notional account that represents all specified electronic money products held for the benefit of a customer; and
- an account that holds one or more central bank digital currencies for the benefit of a customer.

"depository institution"

A "depository institution" is any entity that accepts deposits in the ordinary course of a banking or similar business.

The definition is amended to provide that a "depository institution" also means any entity that holds specified electronic money products or central bank digital currencies for the benefit of customers.

"exchange transaction"

The term "exchange transaction" has the same meaning as in subsection 296(1). For more information, see the commentary to the definition in that subsection.

This new definition is relevant for the purposes of applying the amended definition "investment entity" in this subsection.

"excluded account"

An "excluded account" currently includes several different types of accounts that meet the detailed requirements set out in the definition.

The definition is amended so that it also includes:

- an account established in connection with a contribution of capital to or incorporation of a corporation, if the account meets the following conditions:
    - the account is used exclusively to deposit amounts that are to be used for the purpose of the incorporation of or the making of contributions of capital to a corporation, in accordance with applicable law;
    - any amounts held in the account are blocked until the reporting financial institution obtains an independent confirmation regarding the incorporation or contribution of capital;
    - the account is closed or transformed into an account in the name of the corporation after the incorporation or contribution of capital;
    - any repayments resulting from the failed incorporation or contribution of capital, net of service provided and similar fees, are made solely to the persons who contributed the amounts; and
    - the account has not been established more than 12 months ago, and
- a depository account that only includes all specified electronic money products held for the benefit of a customer, if the rolling average 90 day end-of-day aggregate account balance or value during any period of 90 consecutive days did not exceed 10,000 USD on any day during the calendar year.

Finally, the preamble of the definition is amended to specify that the term means the above "at any time".

"fiat currency"

"Fiat currency" means the official currency of a jurisdiction, issued by a jurisdiction or by a jurisdiction's designated central bank or monetary authority, as represented by physical bank

notes or coins or by money in different digital forms, including bank reserves and central bank digital currencies.

"Fiat currency" also refers to commercial bank money and electronic money products, including specified electronic money products.

This new definition is relevant for the purposes of applying several new definitions in this subsection.

"financial asset"

The definition "financial asset" is intended to encompass any assets that may be held in an account maintained by a financial institution, and includes certain specified assets, such as an interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract or annuity contract.

The definition is amended to provide that a "financial asset" also includes any interest in a relevant crypto-asset.

"high value account"

The definition "high value account" is amended to provide that a preexisting individual account that is an ACRS account with an aggregate balance or value that exceeds 1 million USD on December 31, 2026, or on December 31 of any year subsequent to 2026, is also treated as a high value account.

This amendment is necessary to ensure that an "ACRS account" (as newly defined in this subsection) is not considered a "high value account" because of an aggregate balance or value dating to before December 31, 2026.

"investment entity"

Very generally, an "investment entity" means an entity the business of which is primarily comprised of carrying on investment activities or operations on behalf of other persons.

The definition "investment entity" is to be interpreted in a manner consistent with similar language set forth in the definition of "financial institutions" in the Financial Action Task Force Recommendations (FATF/OECD (2013), *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*).

This definition is amended to add references to "relevant crypto-assets" in subparagraph (a)(iii) and paragraph (b) and to ensure that, for the purposes of subparagraph (a)(iii), investing, administering or managing relevant crypto-assets excludes services effectuating exchange transactions for or on behalf of customers.

Also, the enumeration of instruments at subparagraph (a)(i) of the English version of the provision is slightly amended for greater readability.

"lower value account"

A "lower value account" is a preexisting individual account with an aggregate balance or value as of June 30, 2017, that does not exceed 1 million USD.

The definition is amended to provide that a preexisting individual account (as defined in this subsection) that is an ACRS account (as newly defined in this subsection), with an aggregate balance or value that does not exceed USD 1 million as of December 31, 2026, is also a lower value account.

This amendment is necessary to ensure that an "ACRS account" (as newly defined in this subsection) is not considered a "lower value account" because of a balance or value as of June 30, 2017.

"new account"

A "new account" is a financial account maintained by a reporting financial institution opened after June 2017.

The definition is amended to provide that a new account can also refer to an ACRS account opened after 2026.

This amendment is necessary to ensure that an "ACRS account" (as newly defined in this subsection) is not considered a "new account" if it was opened before 2027.

"non-reporting financial institution"

A "non-reporting financial institution" is a Canadian financial institution that is listed in any of paragraphs (a) to (f) of the definition.

Paragraph (b) of the definition provides that a governmental entity or international organization is a "non-reporting financial institution", other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution or depository institution.

Paragraph (b) is amended to provide that the term does not include a governmental entity or international organization with respect to the activity of maintaining central bank digital currencies for account holders which are not financial institutions, governmental entities, international organizations or central banks.

"preexisting account"

A "preexisting account" is either a financial account maintained by a reporting financial institution on June 30, 2017 or an account that meets the conditions provided in paragraph (b) of the definition.

Paragraph (a) of this definition is amended to provide that an ACRS account maintained by a reporting financial institution on December 31, 2026 can also be a preexisting account.

This amendment is necessary to ensure that an "ACRS account" (as newly defined in this subsection) is considered a "preexisting account" if it was maintained by the financial institution before 2027 but not on June 30, 2017.

"reportable person"

A "reportable person" is a reportable jurisdiction person other than

- a corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a related entity of a corporation the stock of which is regularly traded on one or more established securities markets;
- a governmental entity;
- an international organization;
- a central bank; or
- a financial institution.

This definition is amended to replace the references to "corporation" in the first two carve-outs above with references to "entity".

"relevant crypto-asset"

The term "relevant crypto-asset" has the same meaning as in subsection 296(1). For more information, see the commentary to the definition in that subsection.

This new definition is relevant for the purposes of applying several new and amended definitions in this subsection as well as amended subsection (3).

"specified electronic money product"

"Specified electronic money product" means any product that can be used for making payment transactions and that is:

- a digital representation of a single fiat currency;
- issued on receipt of funds;
- represented by a claim on the issuer denominated in the same fiat currency of which it is a digital representation;
- accepted in payment by a person other than the issuer; and
- by virtue of regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same fiat currency upon request of the holder of the product.

However, it does not include a product that can only be used for facilitating the transfer of funds from a customer to another person pursuant to instructions of the customer. For more information on this exclusion, see the commentary to subsection 270(5).

This new definition is relevant for the purposes of applying several new and amended definitions in this subsection.

Interpretation

ITA
270(2)

Subsection 270(2) provides an interpretive rule that applies for the purposes of Part XIX. This Part is drafted in a manner that is intended to be generally consistent with the model Common Reporting Standard (CRS). This forms the context in which the text of the provisions is to be interpreted.

This rule clarifies that taxpayers should interpret the provisions of Part XIX, unless the context otherwise requires, consistently with the model CRS and associated commentary that was published by the OECD (and as amended from time to time).

This rule is amended for greater certainty by the addition of an explicit reference to the commentary to the CRS.

This amendment comes into force on royal assent.

Interpretation — investment entity

ITA
270(3)

Subsection 270(3) provides an interpretive rule that applies for the purposes of the definition of "investment entity".

Consequential to the addition of the reference to "relevant crypto-assets" in the definition "investment entity" in subsection (1), subsection (3) is amended to make the same reference.

Interpretation — specified electronic money product

ITA
270(5)

Subsection 270(5) provides an interpretive rule that applies for the purposes of the new definition of "specified electronic money product".

Specifically, this subsection provides that the exception contained in the parenthetical language of the definition "specified electronic money product" in subsection (1) does not apply to a product if, in the ordinary course of business of the transferring entity, either the funds connected with such product are held longer than 60 days after receipt of instructions to facilitate the transfer, or, if no instructions are received, the funds connected with such product are held longer than 60 days after receipt of the funds.

Clause 92

General reporting requirements

ITA
271(1)

Subject to certain exceptions, subsection 271(1) requires that each reporting financial institution report specific information to the Minister with respect to each of its reportable accounts. The reference in the preamble to the exceptions is amended consequential to the enactment of new subsections (5) and (6). Several other amendments are also made to modify the information that must be reported.

First, paragraph 271(1)(a) is amended so that whether the account holder has provided a valid self-certification must be reported with respect to each reportable account.

Secondly, paragraph 271(1)(b) is amended so that, in the case of any entity that is an account holder of the account and that, after applying the due diligence procedures in sections 275 to 277, is identified as having one or more controlling persons that is a reportable person, the role or roles by virtue of which each reportable person is a controlling person of the entity and whether a valid self-certification has been provided for each reportable person must be reported with respect to each reportable account.

Thirdly, paragraph 271(1)(c) is amended so that the type of account and whether the account is a preexisting account or a new account must be reported with respect to each reportable account.

Fourthly, paragraph 271(1)(i) provides that whether the account is a joint account and, if so, the number of joint account holders must be reported with respect to each reportable account.

Finally, paragraph 271(1)(j) provides that, in the case of any equity interest held in an investment entity that is a legal arrangement, the role or roles by virtue of which the reportable person is an equity interest holder must be reported with respect to each reportable account.

TIN and date of birth

ITA
271(3)

Subsection 271(3) provides additional rules for certain information required to be reported under paragraphs (1)(a) and (b) for each reportable account that is a preexisting account by providing limited exceptions where certain information is not available, while requiring reporting financial institutions to make reasonable efforts to obtain that information within a specified period after the preexisting account is identified as a reportable account.

Paragraph (b) is amended so that a reporting financial institution is also required to use reasonable efforts to obtain the TIN and date of birth with respect to a preexisting account whenever it is required to update the information relating to the preexisting account pursuant to AML/KYC procedures.

Exception — Part XXI

ITA
271(5)

New subsection 271(5) provides an exception to the reporting requirements in subparagraph (1)(f)(ii) for custodial accounts that, unless the reporting financial institution elects otherwise with respect to any clearly identified group of accounts, the gross proceeds from the sale or redemption of a financial asset are not required to be reported if they are already reported by the reporting financial institution under the new reporting regime for crypto-assets contained in new Part XXI.

Transitional rule

ITA
271(6)

New subsection 271(6) is a transitional rule that provides that with respect to each reportable account that is maintained by a reporting financial institution as of January 1, 2027 and for reporting periods ending before 2029, each reporting financial institution must only report the information on roles, as required under subparagraph (1)(b)(iii) or paragraph (1)(j), if such information is available in the electronically searchable data maintained by the reporting financial institution.

Clause 93

Timing of review

ITA
273(4)

Subsection 273(4) provides a rule governing the timing of the review procedures for identifying reportable accounts among preexisting individual accounts.

Subsection 273(4) is amended to provide that in the case of an ACRS account (as newly defined in subsection 270(1)), the account must be reviewed before

- 2028, if the account is a high value account; or
- 2029, if the account is a lower value account.

Clause 94

Due diligence for preexisting entity accounts

ITA
275(1)

Subsection 275(1) provides a limited, threshold-based exception from the requirements to review, identify or report a preexisting entity account, unless the reporting financial institution elects otherwise.

This subsection is amended to provide that in the case of an ACRS account (as defined in subsection 270(1)), the preexisting entity account does not need to be reviewed, identified or reported as a reportable account until the end of the calendar year following the first year after 2025 in which the aggregate account balance or value exceeds 250,000 USD.

Subsection 275(1) is also amended to clarify that, for an account other than an ACRS account, the timing of the review, identification and reporting of the account is the end of the calendar year following the first year after 2017 in which the aggregate account balance or value exceeds 250,000 USD rather than the last day of any year subsequent to 2017 during which that value threshold is exceeded.

Application of subsection (4)

ITA
275(2)

Subsection 275(2) provides the conditions under which the review procedures contained in subsection (4) apply to a preexisting entity account.

Subsection 275(2) is amended to provide that, where a preexisting entity account is an ACRS account (as newly defined in subsection 270(1)), the review procedures set forth in subsection (4) apply to the account if it has an aggregate account balance or value that exceeds 250,000 USD on December 31, 2026, or on the last day of a subsequent calendar year.

Timing of review

ITA
275(5)

Subsection 275(5) contains the rules governing the timing of the review procedures for identifying reportable accounts among pre-existing entity accounts.

Subsection 275(5) is amended to provide that in the case of a preexisting entity account that is an ACRS account (as newly defined in subsection 270(1)), the account must be reviewed in accordance with subsection (4) before

- 2028, if the account has an aggregate account balance or value that exceeds 250,000 USD on December 31, 2026; or
- the end of the calendar year following the first year after 2026 in which the aggregate account balance or value exceeds 250,000 USD on December 31, if the account does not have an aggregate account balance or value that exceeds 250,000 USD on December 31, 2026.

Clause 95

Due diligence for new entity accounts

ITA
276

This section describes the due diligence procedures for new entity accounts.

Subparagraph 276(b)(ii) is amended to provide that for the purposes of determining the controlling persons of an account holder, a reporting financial institution may only rely on information collected and maintained pursuant to AML/KYC procedures if those are consistent with the 2012 FATF recommendations, and if the reporting financial institution is not legally required to apply AML/KYC procedures that are consistent with the 2012 FATF recommendations, it must apply substantially similar procedures for the purpose of determining the controlling persons.

This amendment applies to the 2027 and subsequent calendar years.

Clause 96

Special due diligence rules – new account

ITA
277(1.1)

New subsection 277(1.1) provides that, in exceptional circumstances where a self-certification cannot be obtained by a reporting financial institution in respect of a new account in time to meet its due diligence and reporting obligations with respect to the reporting period during which the account was opened, the reporting financial institution must apply the due diligence procedures for preexisting accounts, until such self-certification is obtained and validated.

This amendment applies to the 2027 and subsequent calendar years.

Clause 97

Anti-avoidance

ITA
280

Section 280 is an anti-avoidance rule that is intended to prevent the avoidance of an obligation under Part XIX.

Section 280 is amended so that it applies more broadly to an individual or entity instead of a person.

Section 280 is also amended so that its effect is that Part XIX applies as if the individual or entity had not entered into the arrangement or engaged in the practice. This change ensures that an individual or entity cannot circumvent the anti-avoidance rule by having an intermediary enter into an arrangement or engage in a practice the purpose of which is to avoid an obligation under Part XIX.

This amendment applies to the 2027 and subsequent calendar years.

Clause 98

Interpretation

ITA
282(2)

Subsection 282(2) provides an interpretive rule that applies for the purposes of Part XX.
This Part is drafted in a manner that is intended to be generally consistent with the *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy* (the "Model Rules"). This forms the context in which the text of the provisions is to be interpreted. This rule clarifies that taxpayers should interpret the provisions of Part XX, unless the context otherwise requires, consistently with the Model Rules and associated commentary that was published by the OECD (and as amended from time to time).
Subsection 282(2) is amended to refer to the official commentary to the Model Rules.

This amendment comes into force on royal assent.

Clause 99

The following new Part implements the reporting and due diligence standards of the Crypto-Asset Reporting Framework (CARF) developed by the Organisation for Economic Co-operation and Development (OECD) that underpins the automatic exchange of financial account

information. Implementation of the CARF entails the introduction of rules that require crypto-asset service providers to report certain information to the Canada Revenue Agency and to follow due diligence procedures as set out in this Part.

These amendments apply to the 2027 and subsequent calendar years.

Definitions

ITA
296(1)

"active entity"

This definition is relevant to determine the obligations of a reporting crypto-asset service provider as this Part contains many exclusions regarding an "active entity". Most notably, a reporting crypto-asset service provider does not have to carry out the due diligence procedures to determine if the active entity has controlling persons. For this reason, to the extent that an "active entity" is not itself a "reportable person", the crypto-asset service provider would not have reporting obligations in respect of the entity.

An "active entity" is an entity that meets any of the following criteria:

- less than 50% of the entity's gross income for the preceding calendar year is passive income and less than 50% of the assets held by the entity during the preceding calendar year are assets that produce or are held for the production of passive income;
- both
    - all or substantially all of the activities of the entity consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution, and
    - the entity does not function as (and is not represented or promoted to the public as) an investment fund, including
        - a private equity fund,
        - a venture capital fund,
        - a leveraged buyout fund, and
        - an investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- the entity
    - is not yet operating a business,
    - has no prior operating history,
    - is investing capital into assets with the intent to operate a business other than that of a financial institution, and
    - was initially organized no more than 24 months prior to that time;
- the entity has not been a financial institution in any of the past five years and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a financial institution;

- the entity primarily engages in financing and hedging transactions with, or for, related entities that are not financial institutions, and does not provide financing or hedging services to any entity that is not a related entity, provided that the group of those related entities is primarily engaged in a business other than that of a financial institution; and
- the entity meets all of the following requirements:
    - it
        - is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes, or
        - is established and operated in its jurisdiction of residence and it is 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,
    - it is exempt from income tax in its jurisdiction of residence,
    - it has no shareholders or members who have a proprietary or beneficial interest in its income or assets,
    - the applicable laws of the entity's jurisdiction of residence or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased, and
    - the applicable laws of the entity's jurisdiction of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the entity's jurisdiction of residence or any political subdivision thereof.

"anti-money laundering and know your customer procedures or AML/KYC procedures"

This defined term means the record keeping, verification of identity, reporting of suspicious transactions and registration requirements required of a reporting crypto-asset service provider under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

"branch"

A "branch" means a unit, business or office of a reporting crypto-asset service provider that is treated as a branch under the regulatory regime of a jurisdiction or that is otherwise regulated under the laws of a jurisdiction as separate from other offices, units, or branches of the reporting crypto-asset service provider.

"controlling persons"

The term "controlling persons" has the same meaning as under subsection 270(1). Identifying the "controlling persons" is necessary to determine whether an entity that is not a reportable person is nonetheless an entity in respect of which the crypto-asset service provider must report. For

more information, see the commentary to the definition "controlling persons" in subsection 270(1).

"crypto-asset"

A "crypto-asset" means a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions.

"crypto-asset user"

A "crypto-asset user" has two main meanings. First, it means an individual or entity that is a customer of a reporting crypto-asset service provider for purposes of carrying out relevant transactions, other than an individual or entity (other than a financial institution or a reporting crypto-asset service provider) acting as a crypto-asset user for the benefit of, or on behalf of, another individual or entity as agent, custodian, nominee, signatory, investment advisor or intermediary.

Second, with respect to a reportable retail payment transaction, it means the customer that is the counterparty to the merchant for such transaction, if a reporting crypto-asset service provider provides a service effectuating reportable retail payment transactions for or on behalf of the merchant and the reporting crypto-asset service provider is required to verify the identity of the customer under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

Finally, paragraph (b) of that definition clarifies that the individual or entity for the benefit or on behalf of whom another entity or individual acts as a crypto-asset user is to be treated as the customer.

"custodial institution"

The term "custodial institution" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"depository institution"

The term "depository institution" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"entity"

The term "entity" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"entity crypto-asset user"

An "entity crypto-asset user" means a crypto-asset user that is an entity.

"exchange transaction"

An "exchange transaction" means any exchange between relevant crypto-assets and fiat currencies or any exchange between one or more forms of relevant crypto-assets.

"excluded person"

An "excluded person" means any entity the stock of which is regularly traded on one or more established securities market or any entity that is a related entity of such an entity, a governmental entity, an international organization, a central bank, or a financial institution other than an investment entity described in paragraph (b) of the definition "investment entity" in this subsection.

This definition is relevant to determine the obligations of a reporting crypto-asset service provider as this Part contains many exclusions regarding an "excluded person". Most notably, a reporting crypto-asset service provider does not have to carry out the due diligence procedures to determine if the excluded person has controlling persons. That being said, the reporting crypto-asset service provider must carry out the due diligence procedures in respect of an entity crypto-asset user to determine whether that person is in fact an excluded person. If so, the reporting crypto-asset service provider will not be subject to reporting in respect of the excluded person as it is not, by definition, a reportable user.

"fiat currency"

The term "fiat currency" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"financial asset"

The term "financial asset" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"financial institution"

A "financial institution" means a custodial institution, a depository institution, an investment entity or a specified insurance company.

"governmental entity"

The term "governmental entity" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"individual crypto-asset user"

An "individual crypto-asset user" means a crypto-asset user that is an individual (other than a trust).

"investment entity"

This definition is almost identical to the definition of the same term under subsection 270(1) and provides that an investment entity is either an entity that primarily carries on as a business one or more of the activities or operations enumerated under that definition for or on behalf of customers or an entity managed by such entity and that meets a certain income threshold.

Further, that term excludes an entity that is an active entity because of any of paragraphs (b) to (e) of that definition under this subsection. This term is notably relevant to the definition "excluded person".

"partner jurisdiction"

A "partner jurisdiction" means each jurisdiction identified as a partner jurisdiction by the Minister on the Internet webpage of the Canada Revenue Agency or by any other means that the Minister considers appropriate.

"preexisting crypto-asset user"

A "preexisting crypto-asset user" means a crypto-asset user that has established a relationship with the reporting crypto-asset service provider as of December 31, 2026.

"related entity"

An entity is related to another entity if either entity controls the other entity or the two entities are controlled by the same entity or individual.

This definition is relevant to the definitions "active entity" and "excluded person" under this subsection.

For the purposes of this definition, control includes direct or indirect ownership of

- in the case of a corporation, shares of the capital stock of a corporation that give their holders more than 50% of the votes that could be cast at the annual meeting of the shareholders of the corporation and have a fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the capital stock of the corporation;
- in the case of a partnership, an interest as a member of the partnership that entitles the member to more than 50% of the income or loss of the partnership, or the assets (net of liabilities) of the partnership if it were to cease to exist; and
- in the case of a trust, an interest as a beneficiary under the trust with a fair market value that is greater than 50% of the fair market value of all interests as a beneficiary under the trust.

"relevant crypto-asset"

A “relevant crypto-asset” means any crypto-asset that is not a central bank digital currency, a specified electronic money product or any crypto-asset for which the reporting crypto-asset service provider has adequately determined that it cannot be used for payment or investment purposes.

This definition is central in determining the reporting obligations of a reporting crypto-asset service provider since a relevant transaction is one necessarily involving a relevant crypto-asset.

“relevant transaction”

A “relevant transaction” means any exchange transaction and any transfer of a relevant crypto-asset.

This definition is central in determining the reporting obligations of a reporting crypto-asset service provider under subsection 298(1).

“reportable jurisdiction”

A “reportable jurisdiction” means any jurisdiction, including Canada.

“reportable person”

A “reportable person” means a natural person or an entity, other than an excluded person, that is resident in a reportable jurisdiction under the tax laws of that jurisdiction, or an estate of an individual who was a resident of a reportable jurisdiction under the tax laws of that jurisdiction immediately before death, and, for this purpose, an entity that has no residence for tax purposes is deemed to be resident in the jurisdiction in which its place of effective management is situated.

This definition is central in determining the obligations of a reporting crypto-asset service provider under this Part, notably because the service provider is only subject to reporting obligations in respect of crypto-asset users that are reportable persons or have controlling persons who are reportable persons.

“reportable retail payment transaction”

A “reportable retail payment transaction” means a transfer of a relevant crypto-asset in consideration of goods or services for a value exceeding 50,000 USD.

“reportable user”

A “reportable user” means a crypto-asset user that is a reportable person.

This definition is central in determining the obligations of a reporting crypto-asset service provider under this Part, notably because the service provider is only subject to reporting obligations in respect of reportable users or crypto-asset users that have controlling persons who are reportable persons.

"reporting crypto-asset service provider"

A "reporting crypto-asset service provider" means any individual or entity that, as a business, provides a service effectuating exchange transactions for or on behalf of customers, including by acting as a counterparty, or as an intermediary, to such exchange transactions, or by making available a trading platform.

This definition is central in determining the obligations of an individual or entity under this Part since both the due diligence obligations and the reporting obligations only apply to reporting crypto-asset service providers.

"specified insurance company"

The term "specified insurance company" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"TIN"

The term "TIN" has the same meaning as under subsection 270(1). For more information, see the commentary to that definition in subsection 270(1).

"transfer"

A "transfer" means a transaction that moves a relevant crypto-asset from or to the crypto-asset address or account of one crypto-asset user, other than one maintained by the reporting crypto-asset service provider on behalf of the same crypto-asset user, where, based on the knowledge available to the reporting crypto-asset service provider at the time of transaction, the reporting crypto-asset service provider cannot determine that the transaction is an exchange transaction.

This definition is notably relevant to the definitions "reportable retail payment transaction" and "relevant transaction" which are the two types of transactions on which a reporting crypto-asset service provider must report.

"USD"

"USD" means dollars of the United States of America.

Interpretation

ITA
296(2)

Subsection 296(2) provides an interpretive rule that applies for the purposes of Part XXI. This Part is drafted in a manner that is intended to be generally consistent with the model Crypto-

Asset Reporting Framework and its official commentary. This forms the context in which the text of the provisions is to be interpreted.

This rule clarifies that taxpayers should interpret the provisions of Part XXI, unless the context otherwise requires, consistently with the model Crypto-Asset Reporting Framework and associated commentary that was published by the OECD (and as amended from time to time). These are relevant in addition to the guidance to be published by the Canada Revenue Agency.

Interpretation — investment entity

ITA
296(3)

Subsection 296(3) provides an interpretative rule that applies for the purposes of the definition of "investment entity" in this Part.

Specifically, subsection 296(3) provides that an entity is considered to be primarily carrying on as a business one or more of the activities described in paragraph (a) of that definition, or an entity's gross income is primarily attributable to investing, reinvesting or trading in financial assets for the purposes of paragraph (b) of that definition, if the entity's gross income attributable to the relevant activities equals or exceeds 50% of the entity's gross income during the shorter of

- the three-year period that ends at the end of the entity's last taxation year, and
- the period during which the entity has been in existence

Interpretation — branch

ITA
296(4)

Subsection 296(4) provides an interpretative rule that applies for the purposes of the definition of "branch" in subsection (1).

Specifically, subsection 296(4) provides that all units, businesses and offices of a reporting crypto-asset service provider in a single jurisdiction must be treated as a single branch.

Application of sections 298 and 299

ITA
297(1)

Subsection 297(1) provides for the conditions under which sections 298 and 299, which set out reporting and due diligence obligations, will apply in respect of a reporting crypto-asset service provider. Specifically, the sections will apply for a calendar year if the provider is any of the following:

- an entity or individual resident in Canada;

- an entity that is organized under the laws of Canada or a province and has an obligation to file tax returns or tax information returns in Canada;
- a partnership managed from Canada; or
- an entity or individual that carries on a business in Canada.

Application — branch

ITA
297(2)

Subsection 297(2) clarifies that, despite the application of subsections 297(3) to (5) and (7), the reporting and due diligence requirements contained in sections 298 and 299 nonetheless apply to a reporting crypto-asset service provider described in paragraph (1)(d) for a calendar year with respect to relevant transactions effectuated through a branch in Canada

Exception — jurisdiction of residence

ITA
297(3)

Subsection 297(3) provides an exception to the obligation to fulfill the requirements set out at sections 298 and 299 pursuant to paragraphs (1)(b) to (d) if equivalent requirements are completed by the service provider in a partner jurisdiction by virtue of the service provider being resident for tax purposes in such jurisdiction.

Exception — jurisdiction of incorporation or organization

ITA
297(4)

Subsection 297(4) provides an exception for a reporting crypto-asset service provider that is an entity to the obligation to fulfill the requirements set out at sections 298 and 299 pursuant to any of paragraphs (1)(c) to (d) if equivalent requirements are completed by such reporting crypto-asset service provider in a partner jurisdiction by virtue of it being an entity that is incorporated or organized under the laws of such partner jurisdiction and either has legal personality in the partner jurisdiction or has an obligation to file tax returns or tax information returns to the tax authorities in the partner jurisdiction with respect to the income of the entity.

Exception — jurisdiction of management

ITA
297(5)

Subsection 297(5) provides an exception for a reporting crypto-asset service provider that is an entity to the obligation to fulfill the requirements set out at sections 298 and 299 pursuant to

paragraph (1)(d) if equivalent requirements are completed by such reporting crypto-asset service provider in a partner jurisdiction by virtue of it being managed from such jurisdiction.

Exception — branch jurisdiction

ITA
297(6)

Subsection 297(6) provides a general exception to the obligation to fulfill the requirements set out at sections 298 and 299 with respect to relevant transactions effectuated through a branch in a partner jurisdiction, if equivalent requirements are completed by such branch in such jurisdiction.

Exception — substantially similar nexus

ITA
297(7)

Subsection 297(7) provides an exception to the obligation to fulfill the requirements set out at sections 298 and 299 pursuant to subsection (1) if the service provider has notified the Minister in the specified manner confirming that equivalent requirements are completed by the provider under the rules of a partner jurisdiction pursuant to a nexus that is substantially similar to one of those described in paragraphs (1)(a) to (d) to which the reporting crypto-asset service provider is subject in Canada.

Reporting requirements

ITA
298(1)

Subsection 298(1) sets out the information that a service provider must report. Specifically, subsection 298(1) provides that a reporting crypto-asset service provider must report the following information with respect to its crypto-asset users that are reportable users or that have controlling persons that are reportable persons at any time during the year:

- the name, address, jurisdiction of residence, TIN and date of birth (in the case of a natural person) of each reportable user;
- in the case of any entity that has one or more controlling persons that is a reportable person,
    - the name, address, jurisdiction of residence and TIN of the entity,
    - the name, address, jurisdiction of residence, TIN and date of birth of each reportable person, and
    - the role by virtue of which each reportable person is a controlling person of the entity; and
- the name, address, TIN or other identifying number of the reporting crypto-asset service provider.

Also, for each crypto-asset user and for each type of relevant crypto-asset with respect to which it has effectuated relevant transactions during the calendar year, the service provider must report the following:

- the full name of the type of relevant crypto-asset;
- the aggregate gross amount paid, the aggregate number of units and the number of relevant transactions in respect of acquisitions against fiat currency;
- the aggregate gross amount received, the aggregate number of units and the number of relevant transactions in respect of dispositions against fiat currency;
- the aggregate fair market value, the aggregate number of units and the number of relevant transactions in respect of acquisitions against other relevant crypto-assets;
- the aggregate fair market value, the aggregate number of units and the number of relevant transactions in respect of dispositions against other relevant crypto-assets;
- the aggregate fair market value, the aggregate number of units and the number of reportable retail payment transactions;
- the aggregate fair market value, the aggregate number of units and the number of relevant transactions, and subdivided by transfer type where known by the reporting crypto-asset service provider, in respect of transfers to the crypto-asset user (except acquisitions against fiat currency and acquisitions against other relevant crypto-assets, which are already covered in this subsection);
- the aggregate fair market value, the aggregate number of units and the number of relevant transactions, and subdivided by transfer type where known by the reporting crypto-asset service provider, in respect of transfers by the crypto-asset user (except dispositions against fiat currency, dispositions against other relevant crypto-assets and reportable retail payment transactions, which are already covered in this subsection); and
- the aggregate fair market value, as well as the aggregate number of units in respect of transfers by the crypto-asset user effectuated by the reporting crypto-asset service provider to wallet addresses not known by the reporting crypto-asset service provider to be associated with a virtual asset service provider or financial institution.

Exception — TIN

ITA
298(2)

Subsection 298(2) provides an exception that a TIN is not required to be reported if it is not issued by the relevant reportable jurisdiction, or the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such jurisdiction.

Currency — amount paid or received

ITA
298(3)

Subsection 298(3) provides that an amount paid or received that is described at subparagraph (1)(d)(ii) or (iii) must be reported in the fiat currency in which it was paid or received, and, if the amount was paid or received in multiple fiat currencies, the amount must be reported in Canadian dollars, converted at the time of each relevant transaction in a manner that is consistently applied by the reporting crypto-asset service provider.

Currency — fair market value

ITA
298(4)

Subsection 298(4) provides that for the purposes of subparagraphs (1)(d)(iv) to (ix), fair market value must be reported in Canadian dollars, valued at the time of each relevant transaction in a manner that is consistently applied by the reporting crypto-asset service provider.

Due diligence procedures

ITA
299(1)

Subsection 299(1) provides that a crypto-asset user is treated as a reportable user beginning as of the date it is identified, or should have been identified, within the time specified in subsection (6), as such pursuant to the due diligence procedures set out in this section. Determining whether a crypto-asset user is a reportable user is relevant for the purposes of the reporting requirements.

Due diligence procedures — individual crypto-asset users

ITA
299(2)

Subsection 299(2) provides that a reporting crypto-asset service provider must apply the following due diligence procedures to determine whether an individual crypto-asset user is a reportable user:

- obtain a valid self-certification that allows it to determine the individual crypto-asset user's residence for tax purposes, and
- confirm the reasonableness of such self-certification based on the information obtained by the reporting crypto-asset service provider, including any documentation collected pursuant to AML/KYC procedures.

Due diligence procedures — entity crypto-asset users

ITA
299(3)

Subsection 299(3) provides that a reporting crypto-asset service provider must apply the following due diligence procedures to determine whether an entity crypto-asset user is a reportable user or is an entity, other than an excluded person or an active entity, with one or more controlling persons who are reportable persons:

- obtain a valid self-certification that allows it to determine the entity crypto-asset user's residence for tax purposes and whether it is an active entity;
- confirm the reasonableness of such self-certification based on the information obtained by the reporting crypto-asset service provider, including any documentation collected pursuant to AML/KYC procedures;
- if the entity crypto-asset user certifies that it has no residence for tax purposes, rely on the place of effective management or on the address of the principal office to determine the residence of the entity crypto-asset user; and
- if the self-certification indicates that the entity crypto-asset user is resident in a reportable jurisdiction, treat the entity crypto-asset user as a reportable user, unless it reasonably determines based on the self-certification or on information in its possession or that is publicly available, that the entity crypto-asset user is an excluded person.

In respect of an excluded person or an active entity, the reporting crypto-asset service provider must carry out these procedures to determine whether the person or entity is a reportable user but not to determine whether it has controlling persons who are reportable persons.

Due diligence procedures — controlling person

ITA
299(4)

Subsection 299(4) provides that a reporting crypto-asset service provider must apply the following due diligence procedures with respect to an entity crypto-asset user, other than an excluded person or an active entity, to determine whether it has one or more controlling persons who are reportable persons:

- rely on a valid self-certification from the entity crypto-asset user or such controlling person that allows the reporting crypto-asset service provider to determine the controlling person's residence for tax purposes; and
- confirm the reasonableness of the self-certification based on the information obtained by the reporting crypto-asset service provider, including any documentation collected pursuant to AML/KYC procedures.

AML/KYC procedures — controlling person

ITA
299(5)

Subsection 299(5) provides that to determine the controlling persons of an entity crypto-asset user, a reporting crypto-asset provider may rely on information collected and maintained

pursuant to AML/KYC procedures, provided that such procedures are consistent with the *2012 FATF recommendations* (as defined in subsection 270(1)) or, if it is not legally required to apply such procedures, substantially similar procedures.

Timing of review

ITA
299(6)

Subsection 299(6) provides that a reporting crypto-asset service provider must complete the due diligence procedures set out in this section when establishing the relationship with the crypto-asset user or, with respect to preexisting crypto-asset users, before 2028.

Change of circumstances

ITA
299(7)

Subsection 299(7) provides that upon a change of circumstances of a crypto-asset user or its controlling person that causes the reporting crypto-asset service provider to know, or have reason to know, that the original self-certification is incorrect or unreliable, the reporting crypto-asset service provider cannot rely on the original self-certification and must obtain a valid self-certification, or a reasonable explanation and documentation supporting the validity of the original self-certification.

Self-certification — individual crypto-asset user

ITA
299(8)

Subsection 299(8) provides that a self-certification provided by an individual crypto-asset user or controlling person is valid only if it is signed or positively affirmed by the individual crypto-asset user or controlling person on or before the date of its receipt by the reporting crypto-asset service provider and it contains the following information with respect to the individual crypto-asset user or controlling person:

- first and last name;
- address of residence;
- jurisdiction of residence for tax purposes;
- the TIN with respect to each reportable jurisdiction; and
- date of birth.

Self-certification — entity crypto-asset user

ITA
299(9)

Subsection 299(9) provides that a self-certification provided by an entity crypto-asset user is valid only if it is signed or positively affirmed by the crypto-asset user on or before the date of its receipt by the reporting crypto-asset service provider and it contains the following information with respect to the entity crypto-asset user:

- legal name;
- address;
- jurisdiction of residence for tax purposes;
- the TIN with respect to each reportable jurisdiction;
- in case of an entity crypto-asset user, other than an active entity or an excluded person, the information described in subsection (8) with respect to each controlling person of the entity crypto-asset user, unless such controlling person has provided a self-certification pursuant to subsection (8), as well as the role by virtue of which each reportable person is a controlling person of the entity, if not already determined on the basis of AML/KYC procedures; and
- if applicable, information as to the criteria it meets to be treated as an active entity or excluded person.

Exception — TIN

ITA
299(10)

Subsection 299(10) provides that a TIN of a reportable person is not required to be collected if the jurisdiction of residence of the reportable person does not issue a TIN to the reportable person, or if the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by the reportable jurisdiction.

Exception — Part XIX

ITA
299(11)

Subsection 299(11) provides that a reporting crypto-asset service provider that is also a financial institution within the meaning of subsection 270(1) may rely on the due diligence procedures completed under sections 274 and 276 for the purposes of the due diligence procedures in this section.

Exception — self-certification

ITA
299(12)

Subsection 299(12) provides that a reporting crypto-asset service provider may rely on a self-certification already collected for other tax purposes for the purposes of the due diligence

procedures in this section, provided the self-certification meets the requirements of subsection (8) or (9).

Delegation

ITA
299(13)

Subsection 299(13) provides that a reporting crypto-asset service provider may rely on a third party to fulfil the due diligence obligations set out in this section, but such obligations remain the responsibility of the reporting crypto-asset service provider.

Reporting

ITA
300(1)

Subsection 300(1) provides that every reporting crypto-asset service provider, to which section 298 applies, must file with the Minister, before May 2 of each calendar year, an information return in prescribed form containing the information that is required to be reported in respect of the preceding calendar year under this Part.

Electronic filing

ITA
300(2)

Subsection 300(2) provides that the information return required under subsection (1) must be filed by way of electronic filing.

Record keeping

ITA
301(1)

Subsection 301(1) provides that every reporting crypto-asset service provider must keep, at the service provider's place of business or at such other place as may be designated by the Minister, records that the service provider obtains or creates for the purpose of complying with this Part, including self-certifications and records of documentary evidence.

Form of records

ITA
301(2)

Subsection 301(2) provides that every reporting crypto-asset service provider required by this Part to keep records that does so electronically must retain them in an electronically readable format for the retention period referred to in subsection (3).

Retention of records

ITA
301(3)

Subsection 301(3) provides that every reporting crypto-asset service provider that is required to keep, obtain or create records under this Part must retain those records for a period of at least six years following the end of the last calendar year in respect of which the record is relevant.

Anti-avoidance

ITA
302

Section 302 provides that if an individual or an entity enters into an arrangement or engages in a practice, the primary purpose of which can reasonably be considered to be to avoid an obligation under this Part, this Part applies as if the individual or entity had not entered into the arrangement or engaged in the practice. A practice the primary purpose of which can reasonably be considered to be to avoid an obligation under this Part includes partitioning a transaction to avoid the definition of *reportable retail payment transaction*.

Production of TIN

ITA
303(1)

Subsection 303(1) provides that every reportable person and every crypto-asset user that has controlling persons that are reportable persons must provide their TIN and the TIN of each of their controlling persons, if applicable, at the request of a reporting crypto-asset service provider that is required under this Part to make an information return requiring the TIN.

Confidentiality of TIN

ITA
303(2)

Subsection 303(2) provides that a person required to make an information return referred to in subsection (1) must not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under this Act or a regulation, the TIN without the written consent of the person to whom the TIN relates.

Penalty

ITA
303(3)

Subsection 303(3) provides for a penalty for failure to provide a TIN. Specifically, it provides that every reportable person and every crypto-asset user that has controlling persons that are reportable persons who fails to provide on request their TIN (or that of a controlling person that is a reportable person) to a reporting crypto-asset service provider that is required under this Part to make an information return requiring the TIN is liable to a penalty of $500 for each such failure.

However, subsection 303(3) provides an exception to the penalty in the following circumstances:

- an application for the assignment of the TIN is made to the relevant reportable jurisdiction not later than 90 days after the request was made and the TIN is provided to the reporting crypto-asset service provider that requested it within 15 days after the reportable person or entity to whom the TIN relates received it; or
- the reportable person or the crypto-asset user that has controlling persons that are reportable persons is not eligible to obtain a TIN from the relevant reportable jurisdiction (including because the relevant reportable jurisdiction does not issue TINs).

Assessment

ITA
303(4)

Subsection 303(4) provides that the Minister may assess the penalty provided for under subsection 303(3) and that the administrative provisions of Divisions I and J will apply. However, by excluding subsections 164(1.1) to (1.3), an individual or entity liable for the penalty will not be entitled to any repayment of a penalty in dispute by filing an objection.

Excise Tax Act

Clause 100

Avoidance transaction

Excise Tax Act (ETA)
285.03

Clause 100 amends the definition “section 325 avoidance transaction” in subsection 285.03(1) of the *Excise Tax Act* (the Act). This amendment is consequential to the introduction of the supplementary section 325 anti-avoidance rules in subsections 325(6) to (9) of the Act (see commentary for those subsections). The definition is amended by adding new paragraph (c), which provides that a section 325 avoidance transaction includes a transaction or series of

transactions in respect of which property is deemed to have been transferred under subsection 325(7). This expanded definition is relevant for the purposes of the enhanced joint and several and solidary liability rule in subsection 325(9).

The amendment is also relevant for determining whether a person has engaged in section 325 avoidance planning. Subsection 285.03(2) provides for a penalty for a person who engages in, participates in, assents to or acquiesces in planning activity that they know is section 325 avoidance planning, or would reasonably be expected to know is section 325 avoidance planning, but for circumstances amounting to gross negligence.

This amendment is deemed to have come into force on April 16, 2024.

Clause 101

Exception

ETA
298(3)(b)

Existing paragraph 298(3)(b) of the Act overrides the normal limitation period for a reassessment of a person if the reassessment is made with the person's consent for the purpose of disposing of an appeal.

Paragraph 298(3)(b) is amended to ensure that the purposes for which the limitation period for a reassessment may be overridden under this paragraph include disposing of an appeal of a person other than the person being reassessed.

This amendment comes into force on royal assent.

Clause 102

Tax liability re transfers not at arm's length

ETA
325

Existing section 325 of the Act provides rules under which a transferee of property may be liable for unpaid taxes of the transferor when the two parties are not dealing at arm's length.

Section 325 is amended by adding new subsections 325(6) to (9) to introduce supplementary anti-avoidance rules.

These amendments are deemed to have come into force on April 16, 2024.

325(6) – Deemed transfer – conditions

New subsection 325(6) provides that subsection 325(7) applies if, as part of a transaction or series of transactions, the following conditions are satisfied:

- a person (the "planner") transfers property, either directly or indirectly, by means of a trust or by any other means, to a person (the "acquirer") or a person not dealing at arm's length with the acquirer, pursuant to the direction of, or with the concurrence of the acquirer;
- another person (the "conveyor") transfers property, either directly or indirectly, by means of a trust or by any other means, to the planner or any other person; and
- it is reasonable to conclude that one of the purposes for undertaking or arranging the transaction or series of transactions is to avoid joint and several, or solidary, liability of the acquirer and the conveyor for an amount payable or remittable under Part IX of the Act.

325(7) – Deemed transfer

New subsection 325(7) applies if the conditions set out in subsection 325(6) are satisfied. Where these conditions are met, then, for the purposes of section 325, the conveyor is deemed to have transferred the property referred to in paragraph 325(6)(b) to the acquirer, the conveyor is deemed to be a transferor and the acquirer is deemed to be a transferee.

325(8) – Nil consideration – conditions

New subsection 325(8) provides that subsection 325(9) applies in respect of a transaction or series of transactions part of a transaction or series of transactions if either of the following conditions are satisfied:

- the transaction or series of transactions is a section 325 avoidance transaction, as defined in subsection 285.03(1), that is described in paragraph (a) or (c) of that definition; or
- the transaction or series of transactions is a section 325 avoidance transaction, as defined in subsection 285.03(1), that is described in paragraph (b) of that definition and 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 or remittable under Part IX of the Act.

325(9) – Nil consideration

New subsection 325(9) applies if the conditions set out in subsection 325(8) are satisfied. Where these conditions are met, then, for the purposes of section 325, in determining the amount that the transferee and the transferor are jointly and severally, or solidarily, liable to pay, the fair market value of the consideration given by the transferee for any property is deemed to be nil.

Air Travellers Security Charge Act

Clause 104

Exception where objection or appeal

Air Travellers Security Charge Act **(**ATSCA)
42(2)(b)

Existing paragraph 42(2)(b) of the *Air Travellers Security Charge Act* overrides the normal limitation period for a reassessment or a variation of an assessment of a person if the reassessment or the variation of an assessment is made with the person's consent for the purpose of disposing of an appeal.

Paragraph 42(2)(b) is amended to ensure that the purposes for which the limitation period for a reassessment or a variation of an assessment may be overridden under this paragraph include disposing of an appeal of a person other than the person who is being reassessed or whose assessment is being varied.

This amendment comes into force on royal assent.

Excise Act, 2001

Clause 105

Exception

Excise Act, 2001 (EA, 2001)
191(3)(b)

Existing paragraph 191(3)(b) of the *Excise Act, 2001* (the Act) overrides the normal limitation period for a reassessment of a person if the reassessment is made with the person's consent for the purpose of disposing of an appeal.

Paragraph 191(3)(b) is amended to ensure that the purposes for which the limitation period for a reassessment may be overridden under this paragraph include disposing of an appeal of a person other than the person being reassessed.

This amendment comes into force on royal assent.

Clause 106

Liability re transfers not at arm's length

EA, 2001
297

Existing section 297 of the Act provides rules under which a transferee of property may be liable for unpaid duties of the transferor when the two parties are not dealing at arm's length.

Section 297 is amended by adding a new definition "avoidance transaction" to subsection 297(0.1) and by adding new subsections 297(7) to (10) to introduce supplementary anti-avoidance rules.

These amendments are deemed to have come into force on April 16, 2024.

297(0.1) –Avoidance transaction

Consequential on the introduction of the supplementary section 297 anti-avoidance rules in subsections 297(7) to (10), the definition "avoidance transaction" is added to subsection 297(0.1), which contains definitions that apply in section 297. An avoidance transaction means a transaction or series of transactions in respect of which the conditions in paragraph 297(6)(a) or (b) are met. An avoidance transaction also means a transaction or series of transactions where, if subsection 297(6) were to apply to the transaction or series, the amount determined under subparagraph 297(6)(c)(ii) would exceed the amount determined under subparagraph 297(6)(c)(i). Finally, an avoidance transaction also means a transaction or series of transactions in respect of which property is deemed to have been transferred under subsection 297(8). This definition is relevant for the purposes of the enhanced joint and several and solidary liability rule in subsection 297(10).

297(7) – Deemed transfer – conditions

New subsection 297(7) provides that subsection 297(8) applies if, as part of a transaction or series of transactions, the following conditions are satisfied:

- a person (the "planner") transfers property, either directly or indirectly, by means of a trust or by any other means, to a person (the "acquirer") or a person not dealing at arm's length with the acquirer, pursuant to the direction of, or with the concurrence of the acquirer;
- another person (the "conveyor") transfers property, either directly or indirectly, by means of a trust or by any other means, to the planner or any other person; and
- it is reasonable to conclude that one of the purposes for undertaking or arranging the transaction or series of transactions is to avoid joint and several, or solidary, liability of the acquirer and the conveyor for an amount payable under the Act.

297(8) – Deemed transfer

New subsection 297(8) applies if the conditions set out in subsection 297(7) are satisfied. Where these conditions are met, then, for the purposes of section 297, the conveyor is deemed to have

transferred the property referred to in paragraph 297(7)(b) to the acquirer, the conveyor is deemed to be a transferor and the acquirer is deemed to be a transferee.

297(9) – Nil consideration – conditions

New subsection 297(9) provides that subsection 297(10) applies in respect of a transaction or series of transactions part of a transaction or series of transactions if either of the following conditions are satisfied:

- the transaction or series of transactions is an avoidance transaction, as defined in subsection 297(0.1), that is described in paragraph (a) or (c) of that definition; or
- the transaction or series of transactions is an avoidance transaction, as defined in subsection 297(0.1), that is described in paragraph (b) of that definition and 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 the Act.

297(10) – Nil consideration

New subsection 297(10) applies if the conditions set out in subsection 297(9) are satisfied. Where these conditions are met, then, for the purposes of section 297, in determining the amount that the transferee and the transferor are jointly and severally, or solidarily, liable to pay, the fair market value of the consideration given by the transferee for any property is deemed to be nil.

Select Luxury Items Tax Act

Clause 107

Exception – objection or appeal

Select Luxury Items Tax Act (SLITA)
96(3)(b)

Existing paragraph 96(3)(b) of the *Select Luxury Items Tax Act* (the Act) overrides the normal limitation period for a reassessment or a variation of an assessment of a person if the reassessment or the variation of an assessment is made with the person's consent for the purpose of disposing of an appeal.

Paragraph 96(3)(b) is amended to ensure that the purposes for which the limitation period for a reassessment or a variation of an assessment may be overridden under this paragraph include disposing of an appeal of a person other than the person who is being reassessed or whose assessment is being varied.

This amendment comes into force on royal assent.

Clause 108

Liability re transfers not at arm's length

SLITA
150

Existing section 150 of the Act provides rules under which a transferee of property may be liable for unpaid taxes of the transferor when the two parties are not dealing at arm's length.

Section 150 is amended by adding a new definition "avoidance transaction" to subsection 150(1) and by adding new subsections 150(8) to (11) to introduce supplementary anti-avoidance rules.

These amendments are deemed to have come into force on April 16, 2024.

150(1) – Avoidance transaction

Consequential on the introduction of the supplementary section 150 anti-avoidance rules in subsections 150(8) to (11), the definition "avoidance transaction" is added to subsection 150(1), which contains definitions that apply in section 150. An avoidance transaction means a transaction or series of transactions in respect of which the conditions in paragraph 150(7)(a) or (b) are met. An avoidance transaction also means a transaction or series of transactions where, if subsection 150(7) were to apply to the transaction or series, the amount determined under subparagraph 150(7)(c)(ii) would exceed the amount determined under subparagraph 150(7)(c)(i). Finally, an avoidance transaction also means a transaction or series of transactions in respect of which property is deemed to have been transferred under subsection 150(9). This definition is relevant for the purposes of the enhanced joint and several and solidary liability rule in subsection 150(11).

150(8) – Deemed transfer – conditions

New subsection 150(8) provides that subsection 150(9) applies if, as part of a transaction or series of transactions, the following conditions are satisfied:

- a person (the "planner") transfers property, either directly or indirectly, by means of a trust or by any other means, to a person (the "acquirer") or a person not dealing at arm's length with the acquirer, pursuant to the direction of, or with the concurrence of the acquirer;
- another person (the "conveyor") transfers property, either directly or indirectly, by means of a trust or by any other means, to the planner or any other person; and
- it is reasonable to conclude that one of the purposes for undertaking or arranging the transaction or series of transactions is to avoid joint and several, or solidary, liability of the acquirer and the conveyor for an amount payable under the Act.

150(9) – Deemed transfer

New subsection 150(9) applies if the conditions set out in subsection 150(8) are satisfied. Where these conditions are met, then, for the purposes of section 150, the conveyor is deemed to have transferred the property referred to in paragraph 150(8)(b) to the acquirer, the conveyor is deemed to be a transferor and the acquirer is deemed to be a transferee.

150(10) – Nil consideration – conditions

New subsection 150(10) provides that subsection 150(11) applies in respect of a transaction or series of transactions part of a transaction or series of transactions if either of the following conditions are satisfied:

- the transaction or series of transactions is an avoidance transaction, as defined in subsection 150(1), that is described in paragraph (a) or (c) of that definition; or
- the transaction or series of transactions is an avoidance transaction, as defined in subsection 150(1), that is described in paragraph (b) of that definition and 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 the Act.

150(11) – Nil consideration

New subsection 150(11) applies if the conditions set out in subsection 150(10) are satisfied. Where these conditions are met, then, for the purposes of section 150, in determining the amount that the transferee and the transferor are jointly and severally, or solidarily, liable to pay, the fair market value of the consideration given by the transferee for any property is deemed to be nil.

Income Tax Regulations

Clause 109

T4A information return

Income Tax Regulations (ITR)
200(2)(j)

Paragraph 200(2)(j) of the *Income Tax Regulations* generally requires the promoter of an RESP to issue a T4A information return to the recipient of a payment out of an RESP and to file a copy with the Canada Revenue Agency. That paragraph is amended to remove that reporting obligation in the case of a payment made to a designated subscriber.

See the additional commentary on amendments to section 146.1 of the Act regarding modified registration conditions that apply to RESPs entered into between a designated subscriber and a promoter.

Clause 110

ITR
205(3)

Where information returns prescribed in subsection 205(3) are filed late, subsection 162(7.01) of the Act provides for a graduated penalty based on the number of prescribed information returns of a particular type that are late-filed and the number of days that they are late.

Subsection 205(3) is amended to add "Part XIX Information Return — International Exchange of Information on Financial Accounts" and "Part XXI Information Return — International Exchange of Information on Crypto-Assets" to the list of prescribed information returns for the purposes of subsection 162(7.01) of the Act.

These amendments apply to the 2027 and subsequent calendar years.

Clause 111

ITR
205.1(1)

Where information returns prescribed under subsection 205.1(1) are not filed electronically (and more than five information returns of that type are required to be filed for a calendar year), subsection 162(7.02) of the Act provides for a graduated penalty based on the number of prescribed information returns of a particular type that are not filed electronically.

Subsection 205.1(1) is amended to add "Part XIX Information Return — International Exchange of Information on Financial Accounts", "Part XX Information Return — Digital Platform Operators" and "Part XXI Information Return — International Exchange of Information on Crypto-Assets" to the list of prescribed forms that must be filed electronically.

These amendments apply to the 2027 and subsequent calendar years.

Clause 112

Qualified Investments

ITR
221

Section 221 of the Regulations requires certain types of corporations and trusts to file an annual information return where it claims to be a qualified investment for various registered plans (e.g., RRSPs and TFSAs).

Subsection 221(1) is amended to add the two new types of unit trusts introduced as qualified investments (see the additional commentary on subsection 4900(1)) as a “reporting person”. Moreover, trusts that would be mutual fund trusts if paragraph 4801(b) is disregarded are removed as a “reporting person”.

This amendment applies to the 2026 taxation year. Furthermore, as of January 1, 2027, subsection (1) is amended to refer to the new paragraphs 5003(a) and (b) that replace the subsection 4900(1) references to the two new trusts and subsection (2) is amended to remove references to various sections in the Act whose definitions of “qualified investment” are repealed.

Clause 113

Elections

ITR
600

Section 600 prescribes certain provisions for the purposes of subsection 220(3.2) of the Act, under which the Minister may allow for the late filing, amendment or revocation of certain elections.

Section 600 is amended by deleting the reference to paragraph 220(3.2)(b) of the Act. This change does not affect the substance of section 600.

Clause 114

Class 1

ITR
1100(1)(a.1)

Subsection 1100(1) of the Regulations sets out the capital cost allowance (CCA) rates that taxpayers may claim with respect to specified classes of depreciable property.

Paragraph 1100(1)(a.1) currently provides a 6% additional allowance in respect of an “eligible non-residential building” at least 90% of the floor space of which is used at the end of a taxation year for the purpose of manufacturing or processing in Canada goods for sale or lease.

Paragraph (a.1) is amended to provide immediate expensing (as an additional enhanced first-year allowance at an effective rate of 100%) in new subparagraph (i) for “eligible manufacturing buildings” that meet the same 90% “manufacturing floor space requirement”, which are now defined in subsection 1104(2).

Full immediate expensing is available in respect of eligible manufacturing buildings that first meet the manufacturing floor space requirement before 2030. If the manufacturing floor space

requirement is first met in 2030 or 2031, the applicable rate becomes 75%, and if the manufacturing floor space requirement is first met in 2032 or 2033, the applicable rate would be 55%. The enhanced rate under this subparagraph would not be available after 2033.

The current 6% additional allowance in respect of eligible non-residential buildings that meet the manufacturing floor space requirement is now provided in subparagraph (ii). This subparagraph would also apply for eligible manufacturing buildings that still have undepreciated capital cost remaining in the relevant taxation year (e.g., buildings eligible for the 75% or 55% rates).

This amendment is deemed to have come into force on November 4, 2025.

Manufacturing buildings — first-year deductions

ITR
1100(1.01)

New subsection 1100(1.01) provides that, if a deduction is available in respect of an eligible manufacturing building of a taxpayer under subparagraph 1100(1)(a.1)(i) for a taxation year, then the taxpayer may not deduct any other capital cost allowance (CCA) amount in respect of that building for the year.

This provision seeks to prevent a taxpayer from claiming the accelerated deduction under subparagraph 1100(1)(a.1)(i) as well as CCA otherwise provided in respect of the same building in the same taxation year.

For example, if a building is eligible for a 75% or 55% rate under subparagraph 1100(1)(a.1)(i) in the year that it meets the manufacturing floor space requirement, the taxpayer would not be eligible for any other CCA deductions in respect of the building for that year.

This amendment is deemed to have come into force on November 4, 2025.

Property Acquired in the Year

ITR
1100(2)

Subsection 1100(2) provides rules for computing the CCA deduction in respect of a property for the year in which the property first becomes available for use.

Subsection 1100(2) has two main parts. Generally, the first part (as expressed by elements A, B, A.1, and B.1) relates to the enhanced first-year CCA in respect of “accelerated investment incentive property” (AIIP) and “reaccelerated investment incentive property” (RIIP) of a taxpayer, as defined in subsection 1104(4) and (4.01), respectively. The second part (as expressed by element C) is the “half-year rule”, which generally applies to any other depreciable property and limits a taxpayer’s CCA claim to one-half of the otherwise applicable amount, for the year in which the property first becomes available for use.

Element A.1 provides the relevant factors for determining the first-year accelerated CCA for a class. Classes 12, 13, 14, 15, 43.1, 44, 46, 50, 53, 54, 55, 56, and 59, as well as Class 43 in certain circumstances after 2025, are excluded from paragraph (a).

Subsection 1100(2) is amended to add a reference to subparagraph 1100(1)(a.1)(i) in paragraph (a) of element A.1 of the formula. This amendment excludes property eligible for the accelerated deduction under that subparagraph from being eligible for the enhanced first-year CCA as RIIP.

This amendment is deemed to have come into force on November 4, 2025.

Taxation Years Less Than 12 Months

ITR
1100(3)

Subsection 1100(3) of the Regulations provides for the proration of capital cost allowance deductions for taxation years that are less than 12 months.

Subsection 1100(3) is amended to provide that no proration is required in respect of the immediate expensing deduction in subparagraph 1100(1)(a.1)(i).

This amendment is deemed to have come into force on November 4, 2025.

Clause 115

Business and Properties

ITR
1101

Section 1101 provides separate classes in respect of certain properties described in Schedule II to the Regulations and used to earn income.

The French version of section 1101 is amended to better align the English and French versions.

Eligible Non-Residential or Manufacturing Building

ITR
1101(5b.1)

Subsection 1101(5b.1) currently provides that taxpayers may elect to include a building in a separate prescribed class if the building satisfies the definition “eligible non-residential building”, as defined in subsection 1104(2). A taxpayer who acquires such a building may be eligible to claim an additional CCA under paragraphs 1100(1)(a.1) or (a.2) in respect of the

building if a separate class election has been filed with the Minister of National Revenue in the taxation year in which the building is acquired.

Subsection 1101(5b.1) is amended to add a reference to an "eligible manufacturing building", which is also defined in subsection 1104(2). A taxpayer who acquires an eligible manufacturing building may be eligible to claim an accelerated CCA under new subparagraph 1100(1)(a.1)(i) in respect of the building if the separate class election has been filed in the taxation year in which the building is acquired.

Since both eligible non-residential buildings and eligible manufacturing buildings are included in a separate prescribed class under this subsection, only one election would be needed if a building meets the requirements in both definitions.

This amendment is deemed to have come into force on November 4, 2025.

Clause 116

Non-arm's Length Exception

ITR
1102(20.1)

Subsection 1102(20.1) deems a taxpayer not to be dealing at arm's length with another person or partnership in certain circumstances and is intended to prevent taxpayers from contriving arm's length relationships in order to obtain the more favourable treatment that is available for various accelerated CCA provisions in respect of arm's length transfers.

Subsection 1102(20.1) is amended to include a reference to the new "eligible manufacturing building" definition in subsection 1104(2), to ensure that the anti-avoidance rule also applies in respect of the determination of whether a building is an eligible manufacturing building.

This amendment is deemed to have come into force on November 4, 2025.

Rules for Additions to and Alterations of Certain Buildings

ITR
1102(23)

Subsection 1102(23) provides a special rule that applies to additions to, or alterations of, a taxpayer's building that is not an "eligible non-residential building" (as that term is defined in subsection 1104(2)) and that is not included in a separate class under subsection 1101(5b.1).

The rule currently provides that the capital cost of an addition to, or alteration of, a building is deemed to be a separate building for the purpose of applying the additional allowances available under paragraph 1100(1)(a.1) or (a.2), including the separate class election found in subsection 1101(5b.1). Consequently, a taxpayer who acquires an addition to, or alteration of, a

building that itself is not an eligible non-residential building (e.g., the building was acquired before March 19, 2007) may qualify for an additional allowance in respect of the capital cost of the addition or alteration to that building if other conditions relating to claiming an additional allowance under those provisions are met.

Subsection 1102(23) is amended to apply in respect of additions to, or alterations of, an "eligible manufacturing building" as defined in subsection 1104(2).

The current rule continues to apply under new paragraph (a) in respect of eligible non-residential buildings.

New paragraph (b) provides that the capital cost of an addition to, or alteration of, a building is deemed to be a separate building for the purpose of applying the additional allowance available under subparagraph 1100(1)(a.1)(i), regardless of whether the existing building is an eligible manufacturing building.

For example, if a taxpayer builds an addition to an eligible manufacturing building that was fully expensed under subparagraph 1100(1)(a.1)(i), the addition could also be eligible for the accelerated deduction under subparagraph 1100(1)(a.1)(i), provided that the total floor space of the "separate building" (the addition) and the original building meet the manufacturing floor space requirement. For more information, see the commentary to subsection 1102(24).

This amendment is deemed to have come into force on November 4, 2025.

ITR
1102(24)

Subsection 1102(24) provides a special rule for determining whether an addition to, or alteration of, a building to which the deemed building rule in subsection 1102(23) applies is used in the manner required by the accelerated CCA provisions in paragraphs 1100(1)(a.1) and (a.2). In general terms, the use of an addition or alteration that is included as a building in a separate prescribed class (because of an election under subsection 1101(5b.1)) is deemed to be determined on the basis of the use of the total floor space of the building after taking the addition or alteration into account.

Subsection 1102(24) is amended to add a reference to the new "manufacturing floor space requirement" definition in subsection 1104(2), which provides the requirement for the use of the floor space of a building to be eligible for the accelerated CCA deductions provided under paragraph 1100(1)(a.1).

This amendment is deemed to have come into force on November 4, 2025.

Acquisition cost of eligible manufacturing buildings

ITR
1102(25.1)

New subsection 1102(25.1) ensures that the capital cost of an "eligible manufacturing building" (defined in subsection 1104(2)) that was under construction on November 4, 2025 includes the capital cost of the building that was incurred before November 4, 2025, excluding any CCA amounts that have been deducted (for example, if certain parts of the building became available for use under the "rolling-start" rule).

If the taxpayer makes the election under subsection 1101(5b.1) in respect of the building, the taxpayer may be eligible for an accelerated CCA deduction (up to 100%) in respect of those costs under subparagraph 1100(1)(a.1)(i).

Similar to subsection 1102(25), this subsection also provides for an election that allows a taxpayer to not include capital costs incurred before November 4, 2025 for the construction of an eligible manufacturing building in the cost of the building.

This subsection is deemed to have come into force on November 4, 2025.

Clause 117

Definitions

ITR
1104(2)

Subsection 1104(2) sets out definitions that apply for the purposes of Part XI of the Regulations and in Schedule II to the Regulations.

"eligible manufacturing building"

The definition "eligible manufacturing building" is added to describe a building that is eligible for the accelerated CCA deduction under new subparagraph 1100(1)(a.1)(i).

An "eligible manufacturing building" means a taxpayer's building that:

- is located in Canada;
- is acquired by the taxpayer after November 3, 2025;
- is included in Class 1;
- meets either of the conditions identified in paragraph (c), which are similar to those described in paragraph 1104(4)(b) in respect of accelerated investment incentive property; and
- is reasonably expected to meet the "manufacturing floor space requirement" (also defined in this subsection) once it is used at its intended capacity.

This definition is deemed to have come into force on November 4, 2025.

"manufacturing floor space requirement"

The “manufacturing floor space requirement” in respect of a building is the requirement that at least 90% of the floor space of the building is used by the taxpayer, or a lessee of the taxpayer, for the manufacturing or processing in Canada of goods for sale or lease. This definition is relevant for paragraph 1100(1)(a.1), which provides for accelerated CCA deductions that may apply to buildings that meet this requirement.

This definition is deemed to have come into force on November 4, 2025.

Manufacturing or Processing

ITR
1104(9)

Subsection 1104(9) lists various exclusions from the meaning of the phrase “manufacturing or processing” for the purposes of paragraph 1100(1)(a.1), the specified energy property rules in subsection 1100(26) and the manufacturing and processing property described in Class 29 in Schedule II to the Regulations.

Subsection 1104(9) is amended to apply for the purposes of subsection 1104(2), particularly for the new “manufacturing floor space requirement” definition, which is relevant to both immediate expensing under subparagraph 1100(1)(a.1)(i) and the existing 6% additional CCA in respect of eligible non-residential buildings used in manufacturing or processing.

This amendment is deemed to have come into force on November 4, 2025.

Clause 118

Principal Residence

ITR
2301

Section 2301 prescribes the manner in which a taxpayer must make a particular designation under section 54 of the Act.

Section 2301 is amended by replacing the reference to “subparagraph 54(g)(iii)” by a reference to “the definition *principal residence* in section 54” to ensure proper cross-referencing.

Clause 119

Contents of receipts

ITR
3501(1)

Subsection 3501(1) sets out the requirements regarding the information that must be contained in an official receipt issued by a registered organization to enable a taxpayer to claim a credit under section 118.1 of the Act or a deduction under section 110.1 of the Act.

Subsection 3501(1) is amended to remove some of these information requirements by repealing paragraph 3501(1)(d) and subparagraph 3501(1)(e.1)(iii) and by amending paragraph 3501(1)(g) to remove the necessity to indicate an individual's initial on a receipt.

In addition, the French version of paragraph (e.1) is amended to better align the English and French versions.

Also, consequential on the introduction of new subsection 3501(3.2), paragraph 3501(1)(i) is amended to include a reference to that new subsection.

Finally, paragraph 3501(1)(j) is amended by replacing the reference to "website" with a reference to "webpage".

ITR
3501(1.1)

Subsection 3501(1.1) sets out the requirements regarding the information that must be contained in an official receipt issued by a recipient other than a registered organization to enable a taxpayer to claim a credit under section 118.1 of the Act or a deduction under section 110.1 of the Act.

Subsection 3501(1.1) is amended to remove some of these information requirements by repealing paragraph 3501(1.1)(c) and subparagraph 3501(1.1)(e)(iii) and by amending paragraph 3501(1.1)(g) to remove the necessity to indicate an individual's initial on a receipt.

In addition, the French version of paragraph (e) is amended to better align the English and French versions.

Also, consequential on the introduction of new subsection 3501(3.2), paragraph 3501(1.1)(i) is amended to include a reference to that new subsection.

Finally, paragraph 3501(1.1)(j) is amended by replacing the reference to "website" with a reference to "webpage".

ITR
3501(2)

Subsection 3501(2) provides that official receipts must be personally signed by certain individuals except as provided in subsections (3) and (3.1).

Consequential to the enactment of new subsection 3501(3.2), subsection 3501(2) is amended to include a reference to that new subsection.

ITR
3501(3.2)

New subsection 3501(3.2) sets out the circumstances under which an official receipt may be signed electronically.

ITR
3501(5)

Subsection 3501(5) requires a "spoiled official receipt form" to be marked "cancelled". Subsection 3501(5) is amended so that it applies to a "spoiled official receipt". Also, subsection 3501(5) is amended to provide that a spoiled official receipt may alternatively be marked "void".

Clause 120

Registered Plans — Investments

ITR
4900(1)

Subsection 4900(1) lists the types of property that are qualified investments for a trust governed by a deferred profit sharing plan (DPSP), first home savings account (FHSA), registered retirement savings plan (RRSP), registered retirement income fund (RRIF), tax-free savings account (TFSA), registered education savings plan (RESP), or registered disability savings plan (RDSP).

Subsection 4900(1) is amended to add two new types of unit trusts as qualified investments. New paragraph (d.21) specifies the first type of trust as an NI 81-102 fund (i.e., a trust that is subject to, and substantially complies with, the requirements of *National Instrument 81-102 Investment Funds* of the Canadian Securities Administrators).

New paragraph (d.22) specifies the second type of trust. Subparagraph (i) requires the trust to have a class of units outstanding that either has been subject to a lawful distribution in a province to the public (for which a prospectus, registration statement, or similar document was not required) or is qualified for distribution to the public. Subparagraph (i) is based on paragraph 4801(a), disregarding clause 4801(a)(i)(B).

Subparagraph (ii) requires the trust to satisfy the substantive conditions (i.e., disregarding the preamble of paragraph (b), which imposes timing conditions) of an "investment fund" as defined in subsection 251.2(1). An investment fund must be a non-discretionary unitized trust that is factually resident in Canada. The trust must also

- follow a reasonable policy of investment diversification;
- limit its undertaking to the investing of its funds in property;
- not control, alone or as part of a group of persons or partnerships, a corporation;

- not hold property that is used in carrying on a business carried on by it or a non-arm's length person or partnership;
- not hold property that is real property, Canadian or foreign resource property or an interest, or right, in such property; and
- not hold more than 20% of any class of securities of an issuer, unless
    - the issuer is a trust that is an investment fund (or mutual fund corporation that would be an investment fund if it were at trust), or
    - the total fair market value of the trust's property that is equity of the issuer does not exceed 10% of the issuer's equity value and the total fair market value of the trust's property that is liabilities of the issuer does not exceed 10% of the total fair market value of all of the issuer's liabilities.

Finally, subparagraph (iii) requires that the investments of the trust must be managed by a registered investment fund manager (as described in *National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations* of the Canadian Securities Administrators).

These amendments come into force on November 4, 2025.

Clause 121

Qualified and Prohibited Investments for Registered Plans

ITR
Part L

Former Part XLIX of the Regulations prescribes additional qualified investments for certain registered savings plans and provides related rules. Part XLIX is repealed and replaced by new Part L of the Regulations.

New Part L is divided into several sections. First, section 5000 provides definitions that apply throughout Part L. Section 5001 prescribes a variety of debt instruments as qualified investments, section 5002 prescribes a variety of equity instruments as qualified investments, section 5003 prescribes a variety of trust units as qualified investments, and section 5004 prescribes investments that do not fall into the other three categories as qualified investments. Section 5005 prescribes credit rating agencies for the purposes of subparagraphs (c)(v) and (vi) of the qualified investment definition in subsection 207.01(1) of the Act. Finally, section 5006 prescribes various prohibited investments for the purposes of paragraph (d) of the prohibited investment definition in subsection 207.01(1) of the Act.

The table of concordance below identifies the amended provision that replaces the corresponding pre-2027 provision in Part XLIX, if applicable.

Pre-2027 provision (Part XLIX)	**Amended provision**
4900(1)(a)	n.a.
4900(1)(b)	ITA 207.01(1) “qualified investment” (e)

4900(1)(c)	ITR 5002(a), 5006(a)
4900(1)(c.1)	ITA 207.01(1) “qualified investment” (c)(viii)
4900(1)(d)	ITR 5003(c)
4900(1)(d.2)	ITR 5003(c)
4900(1)(e)	ITR 5004(a), 5006(b)
4900(1)(e.1)	n.a.
4900(1)(f)	ITR 5002(b)
4900(1)(g)	ITR 5001(c), 5006(c)
4900(1)(h)	ITR 5001(d), 5006(d)
4900(1)(i)	ITR 5001(b)(i) and (ii), 5001(e)
4900(1)(i.1)	ITR 5001(b)(iii) (Manitoba only)
4900(1)(i.11)	ITR 5002(e)
4900(1)(i.12)	n.a.
4900(1)(i.13)	ITR 5002(e)
4900(1)(i.14)	ITR 5002(e)
4900(1)(i.2)	ITR 5001(a), 5006(e)
4900(1)(j)	ITR 5001(h)(i)
4900(1)(j.1)	ITR 5001(h)(ii)
4900(1)(j.2)	ITR 5001(i)
4900(1)(q)	ITR 5001(f)
4900(1)(r)	ITR 5001(g)
4900(1)(t)	ITR 5004(b)(i)
4900(1)(u)	ITR 5004(b)(ii)
4900(1)(v)	ITR 5004(b)(iii)
4900(1)(w)	ITR 5002(c)
4900(3)	ITA 204 “qualified investment” (d)
4900(5)	n.a.
4900(6), (9)	n.a. (see ITR 5003(d) and 5004(c))
4900(7), (11)	n.a. (see ITR 5003(d) and 5004(c))
4900(14)	ITR 5002(d), (e), (f), 5006(f)
4900(15)	n.a.

Section 5000

Section 5000 provides three definitions: “connected person”, “specified cooperative corporation”, and “specified small business corporation”.

The connected person definition is based on the definition in former subsection 4901(2). The new definition differs in that it refers to controlling individuals of registered plans (terms defined in subsection 207.01(1) of the Act) instead of annuitants or subscribers under, or holders of, the plans. Moreover, because deferred profit sharing plans are not within the scope of the registered plan definition in subsection 207.01(1) of the Act, the new connected person definition does not include a reference to a person who is an employer under the plan.

A connected person under an RRSP, RRIF, RESP, RDSP, TFSA, or FHSA governing a trust includes a person that is an annuitant, subscriber, or holder of the plan (a "controlling individual"), as the case may be, as well as a beneficiary of the registered plan trust. A connected person also includes any other person or partnership that does not deal at arm's length with the controlling individual or beneficiary.

The specified cooperative corporation definition and the specified small business corporation definition are intended to replicate the former definitions in subsection 4901(2).

A specified small business corporation is defined by reference to the definition "small business corporation" in subsection 248(1) of the Act. However, in place of being a Canadian-controlled private corporation (as required by the "small business corporation" definition), the corporation must be a Canadian corporation (as defined in subsection 89(1) of the Act) that is not controlled, directly or indirectly in any manner whatever, by one or more non-resident persons. A specified small business corporation may not be a cooperative corporation.

Following the "small business corporation" definition in 248(1) of the Act, a specified small business corporation must satisfy an asset-use condition. All or substantially all of the fair market value of the assets of the corporation must be attributable to assets that are used principally in an active business carried on primarily in Canada by the corporation or by a corporation related to it, shares or debt of connected small business corporations, or a combination of the two. Active business is defined in subsection 248(1) of the Act as any business that is carried on by a Canadian resident taxpayer other than a specified investment business or a personal services business.

Finally, to qualify as a specified small business corporation at a particular time, a corporation must satisfy these conditions either at that time or at the end of the corporation's preceding tax year.

A specified cooperative corporation includes a cooperative corporation (as defined in subsection 136(2) of the Act). Under that subsection, the purpose of the corporation must be either marketing natural products belonging to or acquired from its members or customers; purchasing supplies, equipment or household necessaries for or to be sold to its members or customers; or performing services for its members or customers. In addition, a specified cooperative corporation includes a corporation that would be a cooperative corporation if the purpose of the corporation was to provide employment to the corporation's members or customers (e.g., in the case of a worker co-operative).

Section 5001

New section 5001 prescribes a variety of debt instruments as qualified investments for the purposes of paragraph (l) of the qualified investment definition in subsection 207.01(1) of the Act.

Paragraph 5001(a) allows the indebtedness of a Canadian corporation represented by a bankers' acceptance to be a qualified investment. This qualified investment was originally provided for under former paragraph 4900(1)(i.2).

Note that a banker’s acceptance is a prescribed prohibited investment under new paragraph 5006(e) where the indebtedness it represents is of a Canadian corporation that is a connected person under the registered plan governing the trust. For more information, see the commentary on new section 5006.

Paragraph 5001(b) allows a bond, debenture, note, or similar obligation of a Canadian corporation to be a qualified investment in three cases. The first kind of obligation, given by subparagraph (i), is one for which the payment of the principal and interest is guaranteed by a corporation or mutual fund trust listed on a designated stock exchange in Canada. This type of qualified investment was originally provided for under former subparagraph 4900(1)(i)(i).

The second kind of obligation, given by subparagraph (ii), is one of a Canadian corporation that is controlled, directly or indirectly, by one or more corporations or mutual fund trusts whose shares or units are listed on a designated stock exchange in Canada. This type of qualified investment was originally provided for under former subparagraph 4900(1)(i)(ii).

The last kind of obligation, given by subparagraph (iii), is one for which the payment of the principal is guaranteed by the government of a province under particular legislation. This type of qualified investment was originally provided for under former paragraph 4900(1)(i.1). Under that paragraph, community development bonds offered under four provincial statutes (from Manitoba, New Brunswick, Ontario, and Saskatchewan) were qualified investments. Three of these statutes have been repealed — only the Community Development Bonds Act of Manitoba remains enacted legislation.

Paragraph 5001(c) allows a bond, debenture, note or similar obligation issued by, or a deposit with, a credit union to be a qualified investment. This qualified investment was originally provided for under former paragraph 4900(1)(g).

Note that an obligation of or deposit with a credit union is a prescribed prohibited investment under new paragraph 5006(c) in cases where the credit union has granted a benefit or privilege to a connected person under a registered plan resulting from the investment. For more information, see the commentary on new section 5006.

Paragraph 5001(d) allows a bond, debenture, note or similar obligation issued by a cooperative corporation to be a qualified investment under certain conditions. This qualified investment was originally provided for under former paragraph 4900(1)(h). One of the conditions is that the corporation must have had at least 100 shareholders (or 50 shareholders, if all shareholders are corporations) throughout the taxation year immediately preceding the year in which the registered plan trust acquires the obligation. However, the former condition requiring an average of 100 plan trusts to hold obligations of the corporation throughout a specified time period has been replaced with a simpler condition that no more than 5% of the fair market value of the

corporation's obligations may be held by plan trusts that share the same controlling individual or beneficiary.

Note that an obligation issued by a cooperative corporation is a prescribed prohibited investment under new paragraph 5006(d) in cases where the corporation has granted a benefit or privilege to a connected person under a registered plan resulting from the investment. For more information, see the commentary on new section 5006.

Paragraph 5001(e) allows a bond, debenture, note or similar obligation of a Canadian corporation to be a qualified investment under specific conditions. First, at the time the obligation is acquired by the registered plan trust, the corporation that issued the obligation must be a corporation with issued and outstanding share capital carried in its books of at least $25 million (or be controlled by such a corporation). Second, at the time the obligation is acquired by the registered plan trust, the corporation that issued the obligation must have issued and outstanding obligations with an aggregate principal amount of at least $10 million held by at least 300 different persons. These obligations must have been issued by way of a lawful distribution to the public under one or more prospectus, registration statement, or similar document that were filed with, and where applicable accepted by, a public authority pursuant to federal or provincial law. This qualified investment was originally provided for under former subparagraph 4900(1)(i)(iii).

Paragraphs 5001(f) and (g) allow a debt issued by certain Canadian corporations without share capital that are exempt from Part I tax under the Act to be a qualified investment. Paragraph (f) relates to transactions whereby provincial or federal Crown assets are privatized. In general, the corporation must have acquired property from the federal or a provincial government for at least $25 million and put it to the same or similar use as before the acquisition. Alternatively, at the time the registered plan trust acquires the debt, it must have been reasonable to expect this condition to be met within a year of the acquisition of the debt. This qualified investment was originally provided for under former paragraph 4900(1)(q).

Paragraph (g) allows a debt issued by non-profit organizations to be a qualified investment under certain conditions. The debt must either be part of a debt issue by the corporation for an amount of at least $25 million or, at the time the debt is acquired by the registered plan, the corporation had issued at least $25 million of debt in a single issuance. This qualified investment was originally provided for under former paragraph 4900(1)(r).

Note that a debt is a prohibited investment (see the definition "prohibited investment" in subsection 207.01(1) of the *Income Tax Act*) where the debtor is a controlling individual of the registered plan or a person or partnership that does not deal at arm's length with the controlling individual.

Paragraph 5001(h) allows a debt obligation (or an interest or right in that debt obligation) that is secured by a mortgage, charge, hypothec, or similar instrument in respect of real or immovable property situated in Canada to be a qualified investment under certain conditions:

- The debt obligation is fully secured (or would be in the absence of a fair market value decline in the property after it is issued). This qualified investment was originally provided for under former paragraph 4900(1)(j).
- The debt obligation is administered by an approved lender under the *National Housing Act* or a qualified mortgage lender under the *Protection of Residential Mortgage or Hypothecary Insurance Act.* Moreover, the debt obligation must be insured under either of those statutes. This qualified investment was originally provided for under former paragraph 4900(1)(j.1), but is updated to reflect the introduction of the *Protection of Residential Mortgage or Hypothecary Insurance Act*. In particular, the updated language will ensure that qualified mortgage lenders that are not also approved lenders can administer such debt obligations.

Note that a debt is a prohibited investment (see the definition "prohibited investment" in subsection 207.01(1) of the *Income Tax Act*) where the debtor is a controlling individual of the registered plan or a person or partnership that does not deal at arm's length with the controlling individual. However, debt obligations described by 5001(h)(ii) are considered 'excluded property' for the purposes of the prohibited investment definition in subsection 207.01(1).

Paragraph 5001(i) allows a certificate representing an undivided interest or right in one or more mortgage obligations or hypothecary claims to be a qualified investment if

- all or substantially all of the fair market value of the certificate is attributable to property that is, or is incidental to, a mortgage obligation or hypothecary claim secured by real or immovable property situated in Canada or cash or government bonds (as described in paragraph (a) or subparagraph (c)(i) of the qualified investment definition in subsection 207.01(1) of the *Income Tax Act*);
- the certificate has an investment grade rating with a credit rating agency referred to in section 5005 when it is acquired by the plan trust; and
- the certificate is issued as part of an issue of certificates of at least $25 million.

This qualified investment was originally provided for under former paragraph 4900(1)(j.2).

Section 5002

New section 5002 prescribes a variety of equity instruments as qualified investments for the purposes of paragraph (l) of the qualified investment definition in subsection 207.01(1) of the Act.

Paragraph 5002(a) allows a share of the capital stock of a mortgage investment corporation to be a qualified investment. This qualified investment was originally provided for under former paragraph 4900(1)(c).

Note that a share of the capital stock of a mortgage investment corporation is a prescribed prohibited investment under new paragraph 5006(a) if it holds any indebtedness, whether by way of mortgage or otherwise, of a person who is a connected person under the registered plan governing the trust. For more information, see the commentary on new section 5006.

Paragraph 5002(b) allows a share of, or similar interest in, a credit union to be a qualified investment. This qualified investment was originally provided for under former paragraph 4900(1)(f).

Paragraph 5002(c) allows an American Depositary Receipt (ADR) to be a qualified investment, provided that the underlying security that the ADR represents is listed on a designated stock exchange. This paragraph is intended to ensure that the de-listing of an ADR will not, in and of itself, result in the ADR becoming a non-qualified investment. Note that an ADR that is itself listed on a designated stock exchange would be covered by the general rule for listed securities in paragraph (d) of the definition "qualified investment" in subsection 207.01(1).

Paragraph 5002(d) allows a share of the capital stock of a specified small business corporation to be a qualified investment. A specified small business corporation is defined in new section 5000 (for more information, see the commentary on new section 5000). This type of qualified investment was originally provided for under subparagraph 4900(14)(a)(i).

Paragraph 5002(e) allows a share of the capital stock of a venture capital corporation described in section 6700, 6700.1, or 6700.2 to be a qualified investment. This type of qualified investment was originally provided for under subparagraph 4900(14)(a)(ii). This paragraph ensures that a share of the capital stock of a Canadian corporation registered under certain provincial legislation will be a qualified investment, as originally provided for under paragraphs 4900(1)(i.11), (i.13), and (i.14).

Paragraph 5002(f) allows a share of the capital or capital stock of a specified cooperative corporation to be a qualified investment. A specified cooperative corporation is defined in new section 5000 (for more information, see the commentary on new section 5000). This type of qualified investment was originally provided for under subparagraph 4900(14)(a)(iii). Note that such a share is a prescribed prohibited investment under new paragraph 5006(f) in certain circumstances. For more information, see the commentary on new section 5006.

Section 5003

New section 5003 prescribes four kinds of unit trusts as qualified investments for the purposes of paragraph (l) of the qualified investment definition in subsection 207.01(1) of the Act.

Paragraphs (a) and (b) of section 5003 refer to two types of unit trusts as qualified investments that were originally added as paragraphs 4900(1)(d.21) and (d.22). New paragraph 5003(a) specifies the first type of trust as an NI 81-102 fund (i.e., a trust that is subject to, and substantially complies with, the requirements of *National Instrument 81-102 Investment Funds* of the Canadian Securities Administrators).

Paragraph 5003(b) specifies the second type of trust. Subparagraph (i) requires the trust to have a class of units outstanding that either has been subject to a lawful distribution in a province to the public (for which a prospectus, registration statement, or similar document was not required) or

is qualified for distribution to the public. Subparagraph (i) is based on paragraph 4801(a), disregarding clause 4801(a)(i)(B).

Subparagraph (ii) requires the trust to satisfy the substantive conditions (i.e., disregarding the preamble of paragraph (b), which imposes timing conditions) of an "investment fund" as defined in subsection 251.2(1). An investment fund must be a non-discretionary unitized trust that is factually resident in Canada. The trust must also

- follow a reasonable policy of investment diversification;
- limit its undertaking to the investing of its funds in property;
- not control, alone or as part of a group of persons or partnerships, a corporation;
- not hold property that is used in carrying on a business carried on by it or a non-arm's length person or partnership;
- not hold property that is real property, Canadian or foreign resource property or an interest, or right, in such property; and
- not hold more than 20% of any class of securities of an issuer, unless
    - the issuer is a trust that is an investment fund (or mutual fund corporation that would be an investment fund if it were at trust), or
    - the total fair market value of the trust's property that is equity of the issuer does not exceed 10% of the issuer's equity value and the total fair market value of the trust's property that is liabilities of the issuer does not exceed 10% of the total fair market value of all of the issuer's liabilities.

Finally, subparagraph (iii) requires that the investments of the trust must be managed by a registered investment fund manager (as described in *National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations* of the Canadian Securities Administrators).

Paragraph 5003(c) allows units of a mutual fund trust (or a unit trust that would be a mutual fund trust if it had been created after 1999, which would allow the trust to meet the condition described in paragraph 4801(a) provided there has been a lawful distribution in a province to the public of units of the trust without the filing of a prospectus or similar document where the document was not required to be filed) to be qualified investments. This type of qualified investment was originally provided for under former paragraphs 4900(1)(d) and (d.2).

Paragraph 5003(d) allows units of small business investment trusts to be qualified investments if they were acquired before January 1, 2027. The units must have been qualified investments at the time they were acquired and would be, at the particular time, qualified investments under the *Income Tax Regulations* applicable on December 31, 2026. Units of small business investment trusts are not qualified investments if acquired after December 31, 2026. This paragraph is intended to provide grandfathering relief in respect of the transition to the new rules. Interests in small business investment trusts were originally provided for as qualified investments under former subsections 4900(6) and (7).

Section 5004

New section 5004 prescribes three kinds of property as qualified investments for the purposes of paragraph (l) of the qualified investment definition in subsection 207.01(1) of the Act.

Paragraph 5004(a) describes property that is an option, warrant, or a similar right to acquire an underlying property that is a qualified investment (or cash in lieu) under certain conditions. The underlying property is required to be a share or unit of (or a warrant on a share or unit of), or a debt issued by, the issuer of the right or a person or partnership with which the issuer does not deal at arm's length. This qualified investment was originally provided for under former paragraph 4900(1)(e).

Note that an option, warrant, or similar right is a prescribed prohibited investment under new paragraph 5006(b) in cases where the issuer of the right is a connected person under a registered plan. For more information, see the commentary on new section 5006.

Paragraph 5004(b) describes gold (with a minimum purity of 99.5%) or silver (with a minimum purity of 99.9%) in the form of a legal tender bullion coin or a bullion bar, ingot or wafer, or represented by a certificate. This qualified investment was originally provided for under former paragraphs 4900(1)(t), (u), and (v) and are reflected in new subparagraphs 5004(b)(i), (ii), and (iii), respectively.

Subparagraph (i) provides additional conditions in order for legal tender bullion coins to be a qualified investment. In particular, it must have been produced by the Royal Canadian Mint and be acquired either directly from the Mint or from a bank, trust company, credit union, insurance corporation or registered securities dealer whose business activities are regulated by the Superintendent of Financial Institutions or a similar provincial authority. In addition, the coin's fair market value must not exceed 110% of the fair market value of its precious metal content. This last condition applies at all times that the coin is held by the plan trust, ensuring that the coin is not held for its numismatic (collectible) value.

Subparagraph (ii) provides additional conditions in order for bullion bars, ingots, or wafers to be a qualified investment. In particular, the bar, ingot, or wafer must have been produced by a metal refiner accredited by the London Bullion Market Association and bear the refiner's hallmark along with an indication of its weight and purity. Moreover, the bar, ingot, or wafer must be acquired either directly from the refiner, the Mint, or from a bank, trust company, credit union, insurance corporation or registered securities dealer whose business activities are regulated by the Superintendent of Financial Institutions or a similar provincial authority.

Finally, subparagraph (iii) relates to gold and silver certificates where the underlying gold or silver would otherwise be a qualified investment for the plan trust under subparagraph (i) or (ii). The certificate must be acquired either directly from the Mint or from a bank, trust company, credit union, insurance corporation or registered securities dealer whose business activities are regulated by the Superintendent of Financial Institutions or a similar provincial authority.

Paragraph 5004(c) provides for an interest of a limited partner in a small business investment limited partnership to be a qualified investment if it was acquired before January 1, 2027. The interest must have been a qualified investment at the time it was acquired and would be, at the

particular time, qualified investments under the *Income Tax Regulations* applicable on December 31, 2026. Interests in small business investment limited partnerships are not qualified investments if acquired after December 31, 2026. This paragraph is intended to provide grandfathering relief in respect of the transition to the new rules. Interests in small business investment limited partnerships were originally provided for as qualified investments under former subsections 4900(6) and (7).

Section 5005

New section 5005 prescribes various credit rating agencies for the purposes of subparagraphs (c)(v) and (vi) of the definition "qualified investment" in subsection 207.01(1) of the Act (requiring certain debt obligations to have an investment grade rating with a prescribed credit rating agency). Section 5005 is also relevant for subparagraph 5001(i)(ii) (see commentary on new paragraph 5001(i) for more information).

Paragraphs (a) to (e) of Section 5005 prescribes the following organizations for this purpose: A.M. Best Company, Inc., DBRS Limited, Fitch Ratings, Inc., Moody's Investors Service, Inc., and Standard and Poor's Financial Services LLC. Paragraph (f) is added to recognize subsidiaries and affiliates that perform credited rating services in jurisdictions outside Canada on behalf of the credit rating agencies listed in paragraphs (a) to (e).

Prescribed credit rating agencies were originally provided for under former subsection 4900(2).

Section 5006

New section 5006 prescribes various property as prohibited investments for the purposes of paragraph (d) of the prohibited investment definition in subsection 207.01(1) of the Act. The property prescribed in new section 5006 are certain kinds of qualified investments where a connected person (as defined in new section 5000) is involved under specific circumstances.

Under former Part XLIX, specified property involving a connected person was not permitted to be a qualified investment, and therefore generally subject to non-qualified investment taxes (presuming the property was not also a prohibited investment). Non-qualified investments are subject to a tax under Part XI.01 of the Act (50% of fair market value), in addition to tax under Part I of the Act applying to income and gains earned on non-qualified investments.

Instead, as prescribed prohibited property, such investments would now be subject to prohibited investment taxes. The Act imposes two special taxes under Part XI.01 when a registered plan holds a prohibited investment: (1) a 50% tax on the fair market value of the investment and (2) a 100% advantage tax on any income or capital gain derived from the investment.

Under paragraph 5006(a), a share of the capital stock of a mortgage investment corporation is a prescribed prohibited investment if it holds any indebtedness, whether by way of mortgage or otherwise, of a person who is a connected person under the registered plan governing the trust. For instance, a share of the capital stock of a mortgage investment corporation would be a prohibited investment for a RESP if the subscriber or beneficiary of the RESP is indebted to the

corporation. In the case of a deferred profit sharing plan, paragraph (b) of the definition "qualified investment" in section 204 excludes as a qualified investment a share of the capital stock of a mortgage corporation of it holds any indebtedness of a person that is a beneficiary or an employer under the deferred profit sharing plan or revoked plan or any person who does not deal at arm's length with that person.

Under paragraph 5006(b), an option, warrant, or similar right is a prescribed prohibited investment if it is issued by a connected person under the registered plan governing the trust. For instance, an option would be a prohibited investment for a TFSA where it was issued by a corporation that does not deal at arm's length with the holder of the TFSA (e.g., where the holder controls the corporation). In the case of a deferred profit sharing plan, paragraph (b) of the definition "qualified investment" in section 204 excludes as a qualified investment an option, warrant, or similar right that is issued by a person that is a beneficiary or an employer under the deferred profit sharing plan or revoked plan or any person who does not deal at arm's length with that person.

Under paragraph 5006(c), an obligation of or deposit with a credit union is a prescribed prohibited investment in cases where the credit union has granted a benefit or privilege to a connected person under a registered plan because of the plan's ownership of a security of the credit union or a deposit with the credit union. For instance, a deposit with a credit union would be a prohibited investment for an RRSP where the credit union granted a benefit (e.g., a preferential interest rate or reduced fees) to the annuitant of the RRSP. In the case of a deferred profit sharing plan, paragraph (b) of the definition "qualified investment" in section 204 excludes as a qualified investment an obligation of or deposit with a credit union where a benefit or privilege is granted to a person that is a beneficiary or an employer under the deferred profit sharing plan or revoked plan or any person who does not deal at arm's length with that person.

Under paragraph 5006(d), an obligation of a cooperative corporation is a prescribed prohibited investment in cases where the corporation has granted a benefit or privilege to a connected person under a registered plan resulting from the plan's ownership of a security of the corporation. For instance, a bond of a cooperative corporation would be a prohibited investment for an RRSP where the corporation granted a benefit (e.g., a discount on products) to the annuitant of the RRSP. In the case of a deferred profit sharing plan, paragraph (b) of the definition "qualified investment" in section 204 excludes as a qualified investment an obligation of a cooperative corporation where a benefit or privilege is granted to a person that is a beneficiary or an employer under the deferred profit sharing plan or revoked plan, or any person who does not deal at arm's length with that person, as a result of the ownership by the plan of a share or obligation of the cooperative corporation.

Under paragraph 5006(e), a banker's acceptance is a prescribed prohibited investment where the indebtedness it represents is of a Canadian corporation that is a connected person under the registered plan governing the trust. For instance, banker's acceptance would be a prohibited investment for an FHSA where it represents an indebtedness of a Canadian corporation that does not deal at arm's length with the holder of the FHSA (e.g., where the holder controls the corporation). In the case of a deferred profit sharing plan, paragraph (b) of the definition "qualified investment" in section 204 excludes as a qualified investment a banker's acceptance

where it represents an indebtedness of a Canadian corporation that is a person that is a beneficiary or an employer under the deferred profit sharing plan or revoked plan and any person who does not deal at arm's length with that person.

Under paragraph 5006(f), a share of the capital or the capital stock of a specified cooperative corporation is a prescribed prohibited investment if ownership of the share (or an identical share) is a condition of membership of the corporation and a connected person under the registered plan governing the trust has received, or can reasonably be expected to receive, a payment pursuant to an "allocation in proportion to patronage" in respect of "consumer goods or services". "Allocation in proportion to patronage" and "consumer goods or services" have the meanings assigned by subsection 135(4) of the Act.

Paragraphs (c), (d) and (f) are intended to prevent registered plans from being used to secure personal benefits that would otherwise be taxable.

New Part L of the Regulations comes into force on January 1, 2027.

Clause 122

Part LI – Small Business Investments

ITR
Part LI

The heading for Part LI of the Regulations is relabelled as "Small Business Investments" instead of "Deferred Income Plans, Investments in Small Business".

This amendment comes into force on January 1, 2027.

Clause 123

Part LI – Small Business Investments

ITR
5100(1)

"specified property"

Consequential to the revisions to the definition "qualified investment" in subsection 207.01(1), the references in the definition "specified property" to property that is described by certain paragraphs of section 204 of the *Income Tax Act* are updated to refer to the relevant paragraphs and subparagraphs of the revised qualified investment definition in 207.01(1) of the *Income Tax Act*.

This amendment comes into force on January 1, 2027.

Clause 124

Prescribed Distributions

ITR
5600(n)

Section 5600 prescribes foreign spin-off distributions for the purposes of the foreign spin-off tax-deferred distribution rule in section 86.1 of the Act. Section 86.1 requires that various conditions be met before a distribution is considered to be an "eligible distribution". The various conditions ensure, among other things, that Canadian shareholders of a foreign corporation are not treated more favourably with respect to a foreign distribution than Canadian shareholders receiving similar distributions from a Canadian corporation.

Certain distributions under the U.S. Internal Revenue Code are considered acceptable without the need for prescription. Because there is not the same familiarity with the way in which other countries approach the taxation of spin-off transactions, there is the additional requirement that a non-U.S. foreign spin-off be prescribed.

Section 5600 is amended to prescribe the distribution by Novartis AG, to its common shareholders, of common shares of Sandoz Group AG on October 4, 2023.

Clause 125

Interpretation

ITR
5907(1)

Subsection 5907(1) provides definitions for the purposes of Part LIX of the Regulations.

Various definitions are being amended, and new definitions are being introduced, in order to take into account, in the surplus computations of foreign affiliates of corporations resident in Canada, the income or profits tax paid under certain tax laws ("DMTT regimes") that have been enacted or brought into effect with the intent of implementing a "Qualified Domestic Minimum Top-up Tax", as defined in *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)* (the "Model Rules"), published by the Organisation for Economic Co-operation and Development.

In general terms, the definitions "exempt deficit", "exempt surplus", "hybrid deficit", "hybrid surplus", "hybrid underlying tax", "taxable surplus" and "underlying foreign tax" are amended to reflect, in the relevant surplus and tax accounts of a foreign affiliate, income or profits tax paid by the affiliate under a DMTT regime. New subsection 5907(1.011) is also introduced to ensure that the income or profits tax paid under a DMTT regime is only taken into account in determining a foreign affiliate's' surplus and tax accounts where expressly provided by those definitions.

Amendments are also made to those definitions because of the new rules introduced in subsections 5907(1.14) to (1.193), which can be summarized in general terms as follows:

- New subsections (1.14) to (1.191) provide various rules to ensure that the income or profits tax paid under a DMTT regime is matched to the appropriate foreign affiliate (e.g., in the case of subsection (1.14), where one entity pays tax under a DMTT regime on behalf of other group entities; and, in the case of subsections (1.16), (1.17) and (1.191), where there is a split, for surplus purposes, between the entity that pays the tax and the entity whose income or profits generates the tax liability).
- Subsections (1.15), (1.18) and (1.19) support the functioning of these new rules.
- Subsection (1.192) is a rule of interpretation that clarifies how to determine whether tax under a DMTT regime is payable in respect of any particular foreign affiliate.
- Subsection (1.193) sets out circumstances where tax paid under a DMTT regime is excluded from an affiliate's hybrid underlying tax or underlying foreign tax.

The new definitions "domestic minimum top-up amount", "domestic minimum top-up tax regime", "fiscal year" and "DMTT group" are added to accommodate the foregoing amendments. Finally, subsection 5907(1.3) is amended to prescribe certain compensation payments made under new subsection (1.14) to be foreign accrual tax.

These amendments are deemed to come into force on December 31, 2023.

"DMTT group"

The definition "DMTT group" is primarily relevant for new subsections 5907(1.14), (1.15) and (1.192). It is also referred to in subsection 126(7) of the Act. A DMTT group consists of the one or more entities that are members of a particular MNE group (as defined in subsection 10(1) of the *Global Minimum Tax Act*) and are subject to a particular jurisdiction's DMTT regime.

A foreign affiliate may be a member of more than one DMTT group where it is resident in one country and has a permanent establishment in another country, if each country enacts a DMTT regime. In that case, the foreign affiliate is a member of the DMTT group of its residence country with respect to its income or profits determined under that country's DMTT regime, and a member of the DMTT group of the country of its permanent establishment with respect to the income or profits of the permanent establishment determined under that other DMTT regime.

This definition is deemed to come into force on December 31, 2023.

"domestic minimum top-up amount"

The new definition "domestic minimum top-up amount" is relevant for purposes of the rules in new subsections 5907(1.14) to (1.192) which, in general terms, deal with situations where one foreign affiliate pays the tax liability on behalf of one or more other affiliates under a jurisdiction's DMTT regime. This situation may arise either because that jurisdiction's laws

allow one affiliate to pay another affiliate's tax liabilities, or as a consequence of one affiliate being a shareholder of another affiliate that is fiscally transparent.

This definition is similar to new subparagraph (vii) of variable B in each of the definitions "exempt surplus" and "taxable surplus", and new subparagraph (viii) of variable B of the definition "hybrid surplus". As in each of those new subparagraphs, this definition contains a two-part test. The difference in the case of this definition is that the activities component of the test applies by reference to all three of the surplus pools, whereas the test in those other subparagraphs applies by reference to only a single surplus pool. For more information, see the commentary to the definitions "exempt surplus", "hybrid surplus" and "taxable surplus" in this subsection.

This definition is deemed to come into force on December 31, 2023.

"domestic minimum top-up tax regime"

The new definition "domestic minimum top-up tax regime" is added to subsection 5907(1) in connection with the amendments to the foreign affiliate surplus rules addressing the treatment of income or profits tax paid under such a regime. Those amendments are to the definitions "exempt surplus", "hybrid surplus" and "taxable surplus" in this subsection and to new subsections 5907(1.011) and (1.14) to (1.193).

By testing whether a set of provisions have been brought into effect with the intention of implementing a qualified domestic minimum top-up tax, this definition does not preclude taxes paid by a foreign affiliate under a jurisdiction's tax laws that fail to obtain "qualified" status from being considered taxes paid under a DMTT regime. Rather, the definition requires an objective assessment of whether the provisions in question can reasonably be viewed as being intended to implement a qualified domestic minimum top-up tax.

This definition is deemed to come into force on December 31, 2023.

"exempt deficit"

Consequential on the introduction of subparagraph (vii) to the description of B in the definition "exempt surplus", the definition "exempt deficit" is amended to add a reference to that subparagraph. For more information, see the commentary to the definition "exempt surplus".

This amendment is deemed to come into force on December 31, 2023.

"exempt surplus"

The definition "exempt surplus" is primarily relevant for the purpose of determining the deductibility of dividends received from a foreign affiliate, pursuant to paragraph 113(1)(a) of the Act.

Subparagraph (vi) of the description of A, and subparagraph (vi) of the description of B, of the definition are both amended to add references to new subsections 5907(1.14) and (1.17). For more information, see the commentary on those subsections.

A new subparagraph (vii) is also added to the description of B, in order to cause reductions to a subject affiliate's exempt surplus for certain amounts of taxes paid under a DMTT regime. Specifically, the subject affiliate's exempt surplus is reduced by a portion of taxes paid by the subject affiliate under such a regime if the portion can reasonably be considered to be in respect of income or profits – as determined under that regime, rather than under the Act or the domestic corporate income tax regime of the relevant foreign jurisdiction – of the subject affiliate that are derived from an activity the income, profit or gains from which would be included in the subject affiliate's exempt earnings. This is a two-part test: the portion of income or profits tax must reasonably be considered to be in respect of the subject affiliate's income or profits (the "income or profits" component of the test), and those income or profits must reasonably be considered to be derived from an activity that would generate exempt earnings of the subject affiliate (the "activities" component of the test).

For the purpose of applying the income or profits component of the two-part test, new subsection 5907(1.192) contains an interpretation rule that determines whether taxes paid by the subject affiliate under the DMTT regime can reasonably be considered to be in respect of the affiliate's income or profits (as determined under that regime). For more information, see the commentary to subsection 5907(1.192).

In applying the activities component of the two-part test, if the subject affiliate has income or profits (as determined under a DMTT regime) that are derived from multiple different activities, the reasonable allocation of the top-up tax among those activities is in proportion to the income or profits generated from each activity. This allocation methodology treats each dollar of income or profits as having contributed equally to the top-up tax liability, reflecting that the top-up tax computation occurs at the jurisdictional level based on an aggregation (or "blending") of all the income and taxes of all the members of the DMTT group. For example, assume a foreign affiliate has paid $50 of top-up tax under a DMTT regime and has $400 of income and profits subject to tax under that regime – $100 of which is derived from an activity the income, profit or gains from which would be included in exempt earnings, and $300 of which is derived from another activity the income, profit or gains from which would be included in taxable earnings. In this case, the reasonable allocation results in a $12.50 reduction of the affiliate's exempt surplus and a $37.50 reduction to the affiliate's taxable surplus (with a corresponding increase to its underlying foreign tax).

In some cases, income or profits from an activity may be recognized for purposes of the DMTT regime in a year prior to the year in which income, profit or gains from that activity are included in a subject affiliate's exempt earnings. In these cases, the subject affiliate's exempt surplus is reduced by the domestic minimum top-up tax paid even though income, profit or gains in respect of the activity have not yet been included in its exempt earnings, provided there is a reasonable expectation at the surplus computation time that any income, profit or gains that would be generated by the activity would be included in the subject affiliate's exempt earnings. Likewise, if the subject affiliate has an exempt loss from a particular activity, but has income or profits

from that activity as computed under the DMTT regime, the subject affiliate's exempt surplus is reduced (or its exempt deficit is increased) by the amount of top-up tax it pays in respect of that income or profits – provided it is the case that, if the subject affiliate had income, profit or gains from that activity, they would be included in computing its exempt earnings.

These amendments are deemed to come into force on December 31, 2023.

"fiscal year"

The new definition "fiscal year" is added to subsection 5907(1). This definition is primarily relevant to new subsections 5907(1.14) and (1.16) to (1.192) and the definition "domestic minimum top-up amount" in this subsection. The term generally refers to the accounting period for which income or profits that are subject to tax under a DMTT regime are determined.

This definition is deemed to come into force on December 31, 2023.

"hybrid deficit"

This definition is amended similarly to the definition "exempt deficit". For more information, see the commentary on the definition "exempt deficit".

This amendment is deemed to come into force on December 31, 2023.

"hybrid surplus"

This definition is amended similarly to the definition "exempt surplus", except that hybrid surplus takes into account only income or profits tax paid on the subject affiliate's income or profits (as determined under a DMTT regime) that are derived from activities any capital gains or capital losses from which would be included in the subject affiliate's hybrid surplus. For more information, see the commentary on the definition "exempt surplus".

These amendments are deemed to come into force on December 31, 2023.

"hybrid underlying tax"

The definition "hybrid underlying tax" is relevant in accounting for income or profits taxes paid in respect of hybrid surplus. It is similar to the concept of underlying foreign tax, which applies in the context of taxable surplus.

Consequential on the introduction of new subsection 5907(1.17), subparagraph (iv) in each of variables A and B of the definition is amended to add a reference to that new subsection. A new subparagraph (v) is also added to variable A consequential on the amendments to the definition "hybrid surplus".

For more information, see the commentary on the definition "exempt surplus" and new subsections 5907(1.16) and (1.17).

These amendments are deemed to come into force on December 31, 2023.

"taxable deficit"

This definition is amended similarly to the definition "exempt deficit". For more information, see the commentary on the definition "exempt deficit".

This amendment is deemed to come into force on December 31, 2023.

"taxable surplus"

This definition is amended similarly to the amendments to the definition "exempt surplus", except that taxable surplus takes into account only income or profits tax paid on the subject affiliate's income or profits (as determined under a DMTT regime) that are derived from activities any income, profits or gains from which would be included in the subject affiliate's taxable earnings. For more information, see the commentary on the definition "exempt surplus".

These amendments are deemed to come into force on December 31, 2023.

"underlying foreign tax"

The definition "underlying foreign tax" is primarily relevant for the purposes of determining the deductibility of dividends received from a foreign affiliate of a corporation, pursuant to subsection 113(1) of the Act.

Subparagraph (v) in variable A and subparagraph (iv) in variable B of this definition are amended, on a similar basis to the amendments made to the definition "hybrid underlying tax", to include a reference to new subsection 5907(1.17). A new subparagraph (vi) is added to variable A of the definition consequential on the amendments to the definition "taxable surplus".

For more information, see the commentary on the definition "taxable surplus" and new subsections 5907(1.16) and (1.17).

These amendments are deemed to come into force on December 31, 2023.

ITR
5907(1.011)

Consequential on the amendments to the definitions "exempt surplus", "hybrid surplus", "hybrid underlying tax", "taxable surplus" and "underlying foreign tax" in subsection 5907(1), new subsection 5907(1.011) is introduced to ensure that the income or profits tax paid under a domestic minimum top-up tax regime (as newly defined in subsection (1)) is only taken into account in determining a foreign affiliate's surplus and tax accounts where expressly provided by those definitions. This rule is aimed at preventing double counting of tax where income or profits tax paid might otherwise be required to be factored into the computations under those definitions

even in the absence of the new provisions that expressly require such tax to be taken into account.

New subsection 5907(1.011) is deemed to come into force on December 31, 2023.

ITR
5907(1.14)

New subsection 5907(1.14) provides rules for the calculation of the surpluses and deficits of a foreign affiliate where the affiliate is a member of a DMTT group (as defined in subsection 5907(1)) and a foreign affiliate (referred to as the "primary affiliate") pays income or profits tax under a DMTT regime on behalf of itself and other members of the DMTT group (referred to as "secondary affiliates") for a fiscal year (as defined in subsection 5907(1)). This situation could arise because the regime requires the primary affiliate to pay the tax liability on behalf of some or all of the members of the DMTT group, or because the DMTT group exercises the option, which may be provided under the regime, of having one member pay on behalf of other members of the DMTT group. In these circumstances, subsection 5907(1.14) sets out the consequences to the primary and secondary affiliates under the surplus rules, including the consequences where a secondary affiliate compensates the primary affiliate for paying such tax on its behalf.

Subsection 5907(1.14) applies to foreign affiliates of a corporation resident in Canada that are members of the same DMTT group. The effect of new subsection 5907(1.15), which applies for the purposes of subsection (1.14), is that a non-resident corporation is deemed to be a foreign affiliate of the corporation resident in Canada if the non-resident corporation is both a member of the same MNE group (as defined in subsection 10(1) of the *Global Minimum Tax Act*) as the corporation resident in Canada and a member of the same DMTT group as another foreign affiliate of the corporation resident in Canada (other than a foreign affiliate that is a foreign affiliate because of subsection (1.15)). This is intended to ensure that all members of the DMTT group are within the scope of subsection (1.14), even if they are not actually foreign affiliates of any corporation resident in Canada, and ensures that foreign affiliates are not denied the benefit of this subsection because the entity paying the tax on behalf of the DMTT group is not otherwise a foreign affiliate. Likewise, a primary affiliate's surplus accounts are adjusted by the total amount of tax paid under a DMTT regime, even if some portion of that tax was paid on behalf of an entity that is not actually a foreign affiliate. For more information, see the commentary on subsection (1.15).

Subparagraph (a)(i) deems any tax paid under the DMTT regime by the primary affiliate that exceeds the primary affiliate's domestic minimum top-up amount for the fiscal year not to have been paid by the primary affiliate. This allows the primary affiliate's surplus and underlying tax accounts to be adjusted by an amount equal to the primary affiliate's domestic minimum top-up amount, while subjecting any of the tax paid by the primary affiliate in excess of that amount to the rules in the rest of the subsection. However, this deeming rule does not apply for the purposes of this subsection, subsections (1.16) and (1.17) and paragraph (1.18)(b) to ensure that this rule and the rules providing for further adjustments where a primary or secondary affiliate is a shareholder of a "transparent affiliate" (within the meaning of subsection (1.16) or paragraph

(1.18)(a)) work appropriately. For more information, see the notes on the definition "domestic minimum top-up amount" in subsection 5907(1) and on subsection 5907(1.192).

Under subparagraph (a)(ii), the primary affiliate's surplus accounts are reduced (or its deficit accounts are increased) by the domestic minimum top-up amount of any secondary affiliate in the same manner that the secondary affiliate's surplus accounts would be reduced (or its deficit accounts increased) if that amount had instead been paid as tax directly by the secondary affiliate. For example, if a secondary affiliate's domestic minimum top-up amount is entirely attributable to activities that generate exempt earnings, the primary affiliate's exempt surplus (or, if the primary affiliate has an exempt deficit, its exempt deficit) is to be adjusted under clause (a)(ii)(A).

Paragraph 5907(1.14)(b) applies where a secondary affiliate compensates the primary affiliate for paying tax in respect of the secondary affiliate's domestic minimum top-up amount. In that case, subparagraph (b)(i) deems the compensation payment to be a payment of income or profits tax, under the DMTT regime, by the secondary affiliate. As a consequence, that amount is taken into account in computing the secondary affiliate's surplus (or deficit) accounts, in accordance with the new rules in the definitions "exempt surplus", "hybrid surplus" and "taxable surplus". For example, an affiliate's exempt surplus account is reduced by the portion of tax paid under a DMTT regime that can reasonably be considered to be in respect of income or profits (as determined under that regime) derived from an activity that would generate exempt surplus. To the extent any portion is taken into account in computing the secondary affiliate's hybrid or taxable surplus (or corresponding deficits), it will also be included in that affiliate's hybrid underlying tax or underlying foreign tax, respectively, under the amendments to those definitions.

As a corollary, under subparagraph (b)(ii), a compensation payment causes corresponding adjustments to be made to the primary affiliate's exempt, hybrid or taxable surplus (or corresponding deficits). These adjustments mirror the adjustments to the primary affiliate's surplus (or deficit) accounts under subparagraph (a)(ii).

Example

Facts

1. *Canco is a corporation resident in Canada that holds all of the issued and outstanding shares of FA 1, FA 2 and FA 3.*

2. *Each of FA 1, FA 2 and FA 3 are members of the same MNE group (as defined in subsection 10(1) of the Global Minimum Tax Act) and are subject to tax under the DMTT regime of Country X.*

3. *The income or profits, and taxes payable, under Country X's DMTT regime in respect of each of FA 1, FA 2 and FA 3 for the fiscal year are as follows:*

	FA 1	*FA 2*	*FA 3*	*Total*

DMTT income	*$1,000*	*$500*	*$0*	*$1,500*
- Exempt earnings generating activities	*$800*	*$500*	*$0*	*$1,300*
- Hybrid surplus generating activities	*$0*	*$0*	*$0*	*$0*
- Taxable earnings generating activities	*$200*	*$0*	*$0*	*$200*
Income or profits tax (DMTT) payable	*$150*	*$75*	*$0*	*$225**

** 100% imposed on and paid by FA 1*

4. *Under the laws of Country X's DMTT regime, while each entity is jointly and severally liable for the taxes payable by the group's members, the liability is assigned to the group's most economically significant entity, which for the year in question is FA 1.*

5. *The other entities in the group are required, under the laws of Country X's DMTT regime, to make compensatory payments for their respective shares of the tax to the entity that pays the tax on behalf of the group. To determine each entity's share of the tax payable for the fiscal year, the group's total tax payable is allocated among the group entities in the jurisdiction in proportion to their DMTT income for the fiscal year (i.e., using the formula in Article 5.2.4 of the Model Rules).*

6. *During the surplus computation period, FA 1 pays $225 in tax on behalf of itself, FA 2 and FA 3 to Country X, and FA 2 pays $75 in compensation to FA 1.*

Analysis

1. *FA 1, FA 2 and FA 3 are members of the same DMTT group.*

2. *The domestic minimum top-up amounts of FA 1, FA 2 and FA 3 are $150, $75 and nil, respectively. Subsection 5907(1.192) provides that the income or profits tax payable under a DMTT regime that can reasonably be considered to be in respect of income or profits of a particular FA under that regime is the income or profits tax determined under that regime to be in respect of the income or profits of that particular FA. In this case, the DMTT regime determines the tax payable in respect of each FA's income or profits according to the allocation under Article 5.2.4. of the Model Rules.*

3. *Under subparagraph 5907(1.14)(a)(i), FA 1 is deemed not to have paid any amount of income or profits tax that exceeds its domestic minimum top-up amount of $150. In this case, the excess is $75.*

4. *Under subparagraph 5907(1.14)(a)(ii), in conjunction with the amendments to subparagraph (vi) of the description of B in the definition "exempt surplus" in subsection 5907(1), FA 1's exempt surplus is reduced by FA 2's domestic minimum top-up amount of $75 because that amount would have reduced FA 2's exempt surplus by $75 if FA 2 had paid the tax amount to Country X. The reduction occurs at the end of the fiscal year.*

5. *The compensation payment that FA 2 pays to FA 1 is, under subparagraph 5907(1.14)(b)(i), deemed to be a payment by FA 2 of tax to Country X in respect of FA 2's domestic minimum top-up amount. As a result, FA 2's exempt surplus is reduced by $75 under new subparagraph (vii) of the description of B of the definition "exempt surplus" in subsection 5907(1). The reduction occurs at the end of the fiscal year.*

6. *Under subparagraph 5907(1.14)(b)(ii), in conjunction with the amendments to subparagraph (vi) of the description of A in the definition "exempt surplus" in subsection 5907(1), the compensation payment reverses the reduction to FA 1's exempt surplus at the end of the fiscal year, such that FA 2's exempt surplus, and not FA 1's exempt surplus, is now adjusted by FA 2's domestic minimum top-up amount.*

New subsection 5907(1.14) is deemed to come into force on December 31, 2023.

ITR
5907(1.15)

New subsection 5907(1.15) is a deeming rule that applies for purposes of the provisions in section 5907 concerning tax paid under a DMTT regime by one foreign affiliate in respect of another foreign affiliate or other entity. This subsection deems any non-resident corporation to be a foreign affiliate of a particular corporation resident in Canada if the non-resident corporation and the particular corporation are both members of the same MNE group (as defined in subsection 10(1) of the *Global Minimum Tax Act*) and the non-resident corporation is a member of a DMTT group of which another foreign affiliate of the particular corporation – other than a deemed foreign affiliate – is a member. This ensures that any provisions that reference a foreign affiliate within the context of a DMTT group – such as new subsection 5907(1.14), which adjusts one affiliate's surplus accounts in accordance with the domestic minimum top-up amount of another foreign affiliate – function appropriately when not all members of the DMTT group are foreign affiliates of the particular corporation resident in Canada.

Paragraph (b) provides a simplification in the case where a deemed affiliate of the particular corporation is not a foreign affiliate of any corporation resident in Canada and thus will not have computed any of its surplus accounts. In that case, any activities carried out by the deemed affiliate are deemed to be exempt earnings-generating activities, such that the affiliate has only exempt surplus. As a consequence, where the deemed affiliate is a secondary affiliate referenced in subsection 5907(1.14), only the primary affiliate's exempt surplus is adjusted in respect of the domestic minimum top-up amount of the secondary affiliate. For more information, see the commentary on that subsection.

New subsection 5907(1.15) is deemed to come into force on December 31, 2023.

ITR
5907(1.16)

New subsection 5907(1.16) lays out the conditions of application of new subsection (1.17), which provides a rule to address tax paid under the DMTT regime of a country by a foreign

affiliate (referred to as the "shareholder affiliate") that has an equity percentage in another foreign affiliate (referred to as the "transparent affiliate") whose "financial accounting income" (as defined in subsection 17(1) of the *Global Minimum Tax Act*) is taken into account in determining the shareholder affiliate's income or profits under the DMTT regime.

Subsection 5907(1.17) ensures that appropriate adjustments are made to the surplus accounts of both affiliates in a situation where, under Canadian tax laws, the transparent affiliate is considered to be a non-resident corporation, and therefore a foreign affiliate, but under the DMTT regime applicable in respect of the shareholder affiliate, the transparent affiliate is treated as a flow-through entity (such that the transparent affiliate's financial accounting income is taken into account in determining the shareholder affiliate's income or profits under that regime). In the absence of subsection 5907(1.17), the rules in Part LIX of the Regulations would not apply appropriately because, from a Canadian perspective, the entity paying the tax (i.e., the shareholder affiliate) is not the entity (i.e., the transparent affiliate) whose surplus accounts reflect the underlying income to which the tax relates. If such a situation occurs in the context of a payment of tax to which subsection 5907(1.14) applies (i.e., one group entity pays the top-up tax on behalf of other group entities), new subsections 5907(1.18) and (1.19) provide "helper" rules to integrate the surplus adjustments under subsection (1.14) with the adjustments under subsection (1.17). For more information, see the commentary on subsections 5907(1.14) and (1.17) to (1.19).

New subsection 5907(1.16) is deemed to come into force on December 31, 2023.

ITR
5907(1.17)

New subsection 5907(1.17) applies when the conditions in new subsection (1.16) are met. If the shareholder affiliate pays tax under a DMTT regime in respect of its income or profits (as determined under that regime), where those income or profits are computed taking into account a portion of the transparent affiliate's "financial accounting income" (as defined in subsection 17(1) of the *Global Minimum Tax Act*), subsection (1.17) adjusts the surplus accounts of the shareholder affiliate and, if a compensation payment is made by the transparent affiliate to the shareholder affiliate, the transparent affiliate.

First, under subparagraph (a)(i), any portion of the income or profits tax paid under the DMTT regime that exceeds the shareholder affiliate's domestic minimum top-up amount is deemed not to have been paid by the shareholder affiliate. This excess is, in effect, the portion of the tax in respect of the shareholder affiliate's income or profits that derive from an activity the income, profit or gains from which would not be included in computing the shareholder affiliate's surplus accounts because they would be included in computing the transparent affiliate's surplus accounts.

The reason that subparagraph (a)(i) applies despite subparagraph 5907(1.14)(b)(i) is to ensure that the latter subparagraph does not result in the shareholder affiliate being deemed to have paid income or profits tax in an amount greater than its own domestic minimum top-up amount. That result could otherwise occur in cases where the shareholder affiliate has compensated a primary

affiliate for paying tax on the shareholder affiliate's behalf, since a portion of the compensation payment could relate to the transparent affiliate's financial accounting income that is included in the shareholder affiliate's income or profits under the DMTT regime.

Under subparagraph (a)(ii), the portion of the tax deemed not to have been paid by the shareholder affiliate nonetheless reduces the shareholder affiliate's relevant surplus accounts (or increases its deficit accounts) to the extent that the portion can reasonably be considered to be in respect of income or profits (determined under the DMTT regime) that are derived from an activity the income, profit or gains from which would be included in those surplus accounts of the transparent affiliate. Where the portion relates to hybrid or taxable surplus, it is also added to the shareholder affiliate's hybrid underlying tax or underlying foreign tax, respectively.

Paragraph (b) applies if the transparent affiliate compensates the shareholder affiliate for the amount of tax deemed not to have been paid under subparagraph (a)(i) and is analogous to paragraph 5907(1.14)(b). In that case, the compensation payment is deemed to be a payment of income or profits tax by the transparent affiliate. This results in adjustments to the transparent affiliate's surplus and tax accounts. At the same time, subparagraph (b)(ii) effectively reverses the adjustments made to the shareholder affiliate's surplus and tax accounts under subparagraph (a)(ii).

As noted, this subsection may operate together with subsection 5907(1.14) in cases where one foreign affiliate pays tax under a DMTT regime on behalf of other affiliates. For more information, see the commentary on subsections 5907(1.18) and (1.19).

New subsection 5907(1.17) is deemed to come into force on December 31, 2023.

ITR
5907(1.18)

New subsection 5907(1.18) lays out the conditions of application of new subsection (1.19), which provides "helper" rules to integrate subsection 5907(1.14) with the rules in subsection 5907(1.17) that apply where the income or profits of a foreign affiliate (referred to in that subsection as a "shareholder affiliate" and in this subsection and subsection (1.19) as the "particular affiliate") include any portion of the "financial accounting income" (as defined in subsection 17(1) of the *Global Minimum Tax Act*) of another foreign affiliate (referred to in subsection (1.17) as the "transparent affiliate"). New subsection 5907(1.19) applies where a particular affiliate is a "secondary affiliate" (within the meaning of subsection 5907(1.14)) that has an equity percentage in a transparent affiliate; the "primary affiliate" (within the meaning of subsection (1.14)) has paid tax under a DMTT regime on behalf of the particular affiliate; and the particular affiliate's income or profits (as determined under that regime) take into account the financial accounting income of the transparent affiliate.

New subsection 5907(1.18) is deemed to come into force on December 31, 2023.

ITR
5907(1.19)

New subsection 5907(1.19) applies when the conditions in new subsection 5907(1.18) are met.

Paragraph (a) ensures that the primary affiliate's surplus accounts are appropriately adjusted under subparagraph 5907(1.14)(a)(ii) by the full amount of tax paid by the primary affiliate under a DMTT regime in respect of the particular affiliate's income or profits (as determined under the DMTT regime). Some portion of that amount is otherwise excluded from the particular affiliate's domestic minimum top-up amount because it derives from amounts that would not be included in the particular affiliate's surplus accounts.

Paragraphs (b) to (d) further assist the application of subparagraphs 5907(1.14)(a)(ii) and (b)(ii), by dictating how the surplus accounts of the primary affiliate are to be adjusted under those subparagraphs in respect of the relevant portion (which refers to the portion of the tax that relates to income or profits derived from the transparent affiliate's activities). These paragraphs essentially require that the primary affiliate's surplus accounts be adjusted to the extent the relevant portion is in respect of an activity the income, profit or gains from which would be included in computing the transparent affiliate's corresponding surplus accounts. In other words, the adjustments to the primary affiliate's surplus accounts trace to the activities of the transparent affiliate, and not the particular affiliate, in respect of the relevant portion.

Following the determination under subsection 5907(1.14) of the adjustments to the primary affiliate's surplus accounts, and taking into account the rules in subsection 5907(1.19), subsection 5907(1.17) then facilitates the appropriate adjustments to the surplus accounts of the particular affiliate and, where a compensation payment is made by the transparent affiliate to the particular affiliate, the transparent affiliate in respect of the portion of the tax that relates to the activities of the transparent affiliate. For more information, see the commentary on subsection 5907(1.17).

New subsection 5907(1.19) is deemed to come into force on December 31, 2023.

ITR
5907(1.191)

New subsection 5907(1.191) addresses a situation that could arise where a foreign affiliate is an investor in an entity that is not recognized as having legal personality under Canadian law nor under the ordinary corporate law of another country with a DMTT regime, but that is treated as a taxable entity both for purposes of that other country's DMTT regime and under the laws of the foreign affiliate investor jurisdiction (i.e., the entity is a "reverse hybrid entity", within the meaning of the Model Rules). Absent this subsection, the investor foreign affiliate would not be considered to have "income or profits" under the DMTT regime because the entity (unlike a permanent establishment of the affiliate) would be recognized as a separate constituent entity from the affiliate with its own income or profits computed under that regime. However, to the extent that that entity's income, profit or gains from its activities would be included in computing the investor affiliate's exempt earnings, hybrid surplus or taxable earnings, it is appropriate to take into account, in computing the corresponding surplus accounts of the investor affiliate, any tax paid in respect of the income or profits (as determined under that regime) that derive from

such activities. To that extent, subsection (1.191) treats that income or profits of the entity as income or profits of the affiliate.

ITR
5907(1.192)

New subsection 5907(1.192) is an interpretation rule for applying various provisions in the surplus rules (and, by virtue of the references to this subsection in the Act, certain provisions in the Act) when there has been a payment of income or profits tax under a DMTT regime.

There are inherent difficulties in identifying the income or profits (as determined under a DMTT regime) that give rise to a domestic minimum top-up tax liability under a DMTT regime, due to the fact that such regimes determine that liability on a jurisdictional basis (i.e., aggregating income, taxes and substance-based income exclusion amounts of all group entities in the jurisdiction), rather than on the entity-by-entity basis applied in traditional corporate income tax systems. It is therefore inconsistent with the design of DMTT regimes to attempt to attribute the tax liability under such a regime to income or profits of a particular entity using a hypothetical standalone top-up tax calculation for the entity. Subsection 5907(1.192) therefore provides that, for the purposes of the surplus rules and the foreign accrual tax rules in subsection 91(4.01) of the Act, the tax liability is to be allocated using the same basis as the DMTT regime uses to allocate the tax payable between entities (e.g., in proportion to the entities' income or profits as determined under that regime). More specifically, it provides that the income or profits tax payable under a DMTT regime for a fiscal year that can reasonably be considered to be in respect of the income or profits, as determined under that regime, of a foreign affiliate of a taxpayer is the amount of tax determined to be payable under that regime in respect of those income or profits. A parallel amendment is also made for the purpose of the foreign tax credit rules in subsection 126(4.8) of the Act.

The Commentary to the Model Rules provides flexibility to jurisdictions in designing their DMTT charging provisions and includes the following examples of how jurisdictions may allocate the tax payable to particular entities:

- The DMTT jurisdiction could charge the tax on an entity-by-entity basis and allocate it to low-taxed entities (i.e., those with an effective tax rate below the minimum rate) based on their share of the low-taxed entities' excess profits; or
- The DMTT jurisdiction could allocate the top-up tax liability to each entity either
  - in accordance with the formula in Article 5.2.4 of the Model Rules (which is the allocation methodology under the *Global Minimum Tax Act*), or
  - based on each entity's share of the excess profits in the jurisdiction.

This subsection simply treats the tax payable allocated to a given entity under a particular DMTT regime as being in respect of that entity's income or profits. In cases where a jurisdiction's DMTT regime determines that the amount of tax payable by a foreign affiliate is nil because, for example, the affiliate has nil income or profits (or nil excess profits) or a loss under that regime, the amount determined under this subsection for that foreign affiliate is nil.

New subsection 5907(1.192) is deemed to come into force on December 31, 2023.

ITR
5907(1.193)

New subsection 5907(1.193) of the Regulations is a rule analogous to subsections 91(4.03) and 126(4.14) of the Act, which deny foreign tax credits and similar deductions with respect to an amount of foreign taxes paid if the foreign tax liability is determined taking into account any taxes imposed under the Act (other than any tax imposed under Part XIII of the Act).

The reference in subsection 5907(1.193) to an "amount paid in respect of that particular amount" ensures that the exclusion applies not only to income or profits tax paid by a foreign affiliate, but also to amounts deemed to be paid by the foreign affiliate (in the case of certain compensation payments that are deemed to be a payment of income or profits tax under paragraph 5907(1.14)(b) or (1.17)(b)).

New subsection 5907(1.193) is deemed to come into force on December 31, 2023.

ITR
5907(1.3)

New paragraph 5907(1.3)(c) is enacted to prescribe an amount to be "foreign accrual tax" (as defined in subsection 95(1) of the Act) for purposes of the foreign accrual tax deduction under subsection 91(4) of the Act, which is applicable where a taxpayer has an income inclusion under subsection 91(1) of the Act in respect of foreign accrual property income of a foreign affiliate. This new paragraph prescribes certain compensation payments that are made by a foreign affiliate (or a shareholder affiliate) to a primary affiliate (within the meaning of subsection 5907(1.14)) and that meet the requirements of paragraph 5907(1.14)(b) to be foreign accrual tax, subject to the exception in subsection 91(4.03) of the Act. A compensation payment is prescribed to be foreign accrual tax to the extent that it can reasonably be considered to be in respect of income or profits (determined under the DMTT regime) that are derived from an activity the income, profit or gains from which are included in the foreign affiliate's foreign accrual property income that gives rise to the taxpayer's income under subsection 91(1) of the Act. For more information, see the commentary on subsection 91(4.03) of the Act and subsection 5907(1.14).

New paragraph 5907(1.3)(c) is deemed to come into force on December 31, 2023.

Clause 126

Child Tax Credits

ITR
6400

Section 6400 prescribed dates for the purposes of former subsection 122.2(1) of the Act.

Section 6400 is repealed as it is obsolete.

Clause 127

Prescribed Venture Capital Corporations, Labour sponsored Venture Capital Corporations, Investment Contract Corporations, Qualifying Corporations and Prescribed Stock Savings Plans

ITR
6701

Section 6701 provides a definition of the term "prescribed labour-sponsored venture capital corporation" for the purposes of certain sections of the Act.

Consequential to the addition of references to that defined term to subsection 211.8(1) of the Act and paragraph 6702(b) of the Regulations, section 6701 is amended to add that subsection and that paragraph to the provisions for the purposes of which the definition applies.

Clause 128

Prescribed Venture Capital Corporations, Labour sponsored Venture Capital Corporations, Investment Contract Corporations, Qualifying Corporations and Prescribed Stock Savings Plans

ITR
6702(b)

Section 6702 prescribes certain forms of assistance for the purposes of subparagraph 40(2)(i)(ii) and clause 53(2)(k)(i)(C) of the Act.

Paragraph 6702(b) is amended to replace the reference to a "labour-sponsored venture capital corporation" by a reference to "prescribed labour-sponsored venture capital corporation" (as that term is defined by amended section 6701).

Clause 129

Amount included in income

ITR
6803

A "foreign retirement arrangement" is defined as a prescribed plan or arrangement. This definition is relevant to paragraph 56(1)(a) under which amounts received in respect of a foreign retirement arrangement are included in income. The definition is also relevant for the purposes of subsection 12(11) "investment contract", paragraphs 60(j), 81(1)(r), 94(1)(b), subsection 108(1) "trust", paragraph 127.52(1)(a) and subsection 104(27).

Section 6803 currently prescribes Individual Retirement Accounts established pursuant to the U.S. *Internal Revenue Code of 1986* for this purpose. Section 6803 is amended to add subsection 401(k) plans described in the U.S. *Internal Revenue Code of 1986* to the list of prescribed plan or arrangements.

This amendment is intended to ensure that 401(k) accounts receive treatment consistent with other U.S. pension plans such as individual retirement accounts (IRAs). Canadian residents who renounce U.S. citizenship have the equivalent of a deemed distribution due to the operation of the *Internal Revenue Code*. Foreign retirement accounts, including IRAs, are included in Canadian income by the operation of subsection 56(12) when the account is considered to be distributed by the foreign law under clause 56(1)(a)(i)(C.1).

Foreign taxes paid on foreign retirement accounts are eligible for the foreign tax credit to offset any foreign taxes paid under section 126. Without this amendment, 401(k) accounts would not be subject to Canadian taxation and may have been entitled to a foreign tax credit in certain circumstances despite the lack of a corresponding Canadian tax obligation.

Clause 130

Qualifying transfers

ITR
8303(6)(a)(i)

Subsection 8303(6) defines, for the purposes of calculating provisional PSPAs under subsections 8303(3) and 8304(5), the amount of an individual's qualifying transfers made in connection with a past service event to offset the provisional PSPA associated with the crediting of the past service benefits.

Subsection 8303(6) is amended, consequential to the changes to RRIF transfer rules in subsections 146.3(14) and (14.1), to take into account amounts transferred under those subsections to a registered pension plan for the purpose of calculating provisional PSPAs.

This amendment is deemed to come into force on January 1, 2025.

Clause 131

Amount included in income

ITR
8304(11)

Subsection 8304(11) limits the application of subsection 8304(10) to those past service events that are the result of an employer establishing an individual pension plan or amending an individual pension plan to provide additional benefits to one or more members.

Subsection 8304(10) generally requires that the cost of new or additional past service benefits under an individual pension plan be funded first out of a plan member's existing registered retirement savings before new deductible RPP contributions may be made to the individual pension plan.

Subsection 8304(11) is amended to remove the reference to a past service event that results from the establishment of the plan or from an amendment to the plan to provide additional retirement benefits. This amendment is intended to have the effect that subsection 8304(10) does not apply to plan splits and mergers funded with asset transfers under subsection 147.3(3) that result in nil PSPAs pursuant to subsection 8304(5).

This amendment is deemed to come into force on January 1, 2024.

Clause 132

Conditions — Retroactive Contributions

ITR
8308(5.2)(c)

Consequential to the repeal of section 8512 of the Regulations, subsection 8308(5.2) is amended to remove the reference to section 8512.

This amendment is deemed to have come into force on August 12, 2024.

Clause 133

Permissible Contributions

ITR
8502(b)(iv)

Paragraph 8502(b) lists the permissible contributions to a registered pension plan (RPP).

Consequential to an amendment to paragraph 146.3(14)(b) of the Act to permit transfers from a RRIF to an RPP of the RRIF annuitant’s current or former spouse or common-law partner after a relationship breakdown, subparagraph 8502(b)(iv) is amended to add a reference to 146.3(14). Accordingly, such transfers from a RRIF will be a permissible contribution to an RPP.

Clause 134

Pre-retirement Survivor Benefits

ITR
8503(2)

Paragraph 8503(2)(e) permits an RPP to provide for the payment of survivor benefits under a defined benefit provision where a member dies before commencing to receive benefits.

Consequential on an amendment to paragraph 8503(2)(i), subparagraph 8503(2)(e)(i) is amended to recognize that a lump sum death benefit might be payable to a beneficiary other than a dependant that is receiving survivor benefits.

Paragraph 8503(2)(i) of the Regulations allows an RPP to provide for the payment of one or more lump sum amounts to one or more beneficiaries after the death of a plan member who dies before the member's pension commences, in place of the payment of a pre-retirement survivor pension.

Paragraph 8503(2)(i) is amended to allow a dependant pension described in subparagraph (e)(iv) to be paid alongside the lump sum payment. The lump sum payment may not exceed the present value of benefits that accrued to the benefit of the member less the present value of the dependant's survivor benefits.

These amendments are deemed to have come into force on January 1st, 2025.

Additional conditions

ITR
8503(4)

Paragraph 8503(4)(a) restricts the current service contributions that may be made by plan members under a defined benefit provision of a registered pension plan (RPP).

Paragraph 8503(4)(a) is amended in two ways. First, it is amended to refer to RPPs that are subject to a "designated provision of a law of Canada or a province" (section 8513). Second, new subparagraph (i.1) will permit a higher annual employee contribution limit (that is, higher than the traditional formula set out in subparagraph (i)) for RPPs that are not subject to a "designated provision of a law of Canada or a province". The higher limit will be equal to the money purchase limit for the contribution year. Consequential amendments are made to section 8513.

Paragraph 8503(4)(f) is amended to provide that medical information taken into account by plan administrators in determining periods of disability may now be obtained from a psychologist in addition to the already available option to have reports written by doctors and nurse practitioners.

These amendments come into force on January 1, 2025.

Waiver of Member Contribution Condition

ITR
8503(5)

Subsection 8503(5) of the Regulations allows the Minister of National Revenue to waive the condition in paragraph 8503(4)(a) relating to maximum member contributions to a registered pension plan if the employee contributions are determined in a manner acceptable to the Minister.

Subsection 8503(5) is amended to replace a reference to "paragraph (4)(a)" by a reference to "subparagraph (4)(a)(i)". It is consequential to the introduction of subparagraph 8503(4)(a)(i.1) which relaxes the limits on member contributions. Requests for a waiver apply to the contribution limits specified in subparagraph 8503(4)(a)(i) and not to the limit in new subparagraph (a)(i.1).

This amendment is deemed to have come into force on January 1st, 2025.

Clause 135

Permissible benefits

ITR
8506(1)

Section 8506 of the Regulations describes the benefits that may be provided under a money purchase provision of a registered pension plan (RPP).

Paragraph 8506(1)(e.2) sets out the conditions that must be met for variable payment life annuity (VPLA) benefits to be considered permissible under a money purchase provision of an RPP.

Clause 8506(1)(e.2)(iii)(A) is amended by adding new paragraph 8506(1)(j) to the list of retirement benefits that may be paid to participants of a VPLA. Accordingly, a VPLA may provide to a survivor of a deceased VPLA member a final lump payment, if the total annuity payments paid out of the VPLA were less than the amount that the RPP member transferred to the VPLA Fund to receive VPLA benefits.

This amendment generally corresponds to a new permissible benefit under subsection 8506(i)(j) that will permit a new "return of capital" feature for annuities purchased from a member's account under a money purchase provision of an RPP. Subsection 8506(1) is also amended to add a new type of survivor benefit. New paragraph 8506(1)(j) will permit an RPP annuity to provide a last lump sum payment after the death of the annuitant (often referred to as a return-of-capital guarantee). The amount of the death benefit is determined by the formula A + B – C. Variable A is the total amount paid (from the member's money purchase account) to purchase the annuity contract. Variable B effectively represents an amount of interest calculated on the purchase price from the date of the annuity purchase to the date of the payment of the lump sum death benefit. Variable C is the amount of any annuity payments made from the contract. In short, if the purchase price plus interest exceeds the total annuity payments to the annuitant, the contract may pay the residual amount to a survivor of the annuitant.

These amendments are deemed to have come into force on August 12, 2024.

VPLA fund

ITR
8506(13)(a)

Subsection 8506(13) sets out three conditions that must be satisfied for an arrangement to qualify as a "VPLA fund" under a money purchase provision of a pension plan for the purposes of providing VPLA benefits described in paragraph 8506(1)(e.2).

Paragraph 8506(13)(a) prohibits contributions to the fund other than amounts transferred from accounts of members of the plan or another VPLA fund subject to the conditions described in subparagraph (ii). New subparagraph 8506(13)(a)(iii) is added to permit contributions to a VPLA fund that is transferred from a VPLA fund under another registered pension plan at the discretion of the administrator of the transferor fund. The transfer must be made to replace the VPLA benefits of one or more participants of the transferor fund by benefits provided under the VPLA fund. This could occur, for example, in cases where Company A (which sponsors RPP A) acquires Company B (which sponsors RPP B) and wishes to transfer VPLA participants under RPP B to its VPLA fund under RPP A (i.e., replace the VPLA benefits provided under B's VPLA fund with VPLA benefits provided under A's VPLA fund).

This amendment is deemed to have come into force on January 1, 2024.

Clause 136

Registration and Amendment

ITR
8512

Section 8512 is repealed. The prescribed manner to apply for registration of (or to amend) a registered pension plan is replaced by new paragraph (a.2) of the definition of "prescribed" in subsection 248(1) of the *Income Tax Act*.

This amendment is deemed to have come into force on August 12, 2024.

Clause 137

Designated laws

ITR
8513

Section 8513 defines the expression "designated provision of the law of Canada or a province" for purposes of various conditions applicable to registered pension plans.

The definition is amended to add a reference to “paragraph 8503(4)(a)”. For additional information see the commentary related to the amendments subsection 8503(4).

This amendment is deemed to have come into force on August 12, 2024.

Clause 138

Prohibited Investments

ITR
8514(2)

Subsection 8514(2) sets out a number of exceptions to the list of prohibited investments for registered pension plans (RPPs).

New subparagraph 8514(2)(g) provides an exception for RPPs that are not individual pension plans (as defined in subsection 8300(1)). The RPP will generally not be prohibited from investing in the shares or debt of a person or a partnership that is non-arm’s length to a participating employer, if the investment complies with the conditions in subparagraphs 8514(g)(i) and (ii).

Subparagraph (i) narrows the exception by requiring the non-arm’s length relationship exists solely in the context of a person described in paragraphs (a) to (d) of the definition “restricted financial institution” (for example, a bank) that is a participating employer under the RPP.

Subparagraph (i) is meant to limit the exception to the financial industry, including banks, trustees, credit unions and insurance corporations and their corporate groups (affiliated corporations).

Subparagraph (ii) broadly prohibits any person from benefiting from the RPP holding the investment if holding that investment would not have occurred in a normal commercial relationship and was intended to take advantage of the RPP’s exemption from tax under Part I of the Act.

Subparagraph (ii) is intended to guard against transactions designed to artificially shift taxable income into the shelter of a RPP or to circumvent the RPP contribution limits. It is not intended to prevent fees from being paid to the investment manager or favorable rates provided to the RPP provided these transactions are not intended to abuse the tax exemption afforded RPPs.

For example, where the participating employer of the RPP is a bank which deals with (often controls) an investment management company and where that investment manager does not legally deal at arm's-length from pooled funds or partnerships that it has created, new paragraph 8514(2)(g) will not prohibit the bank’s RPP from investing in those funds and partnerships.

This amendment is deemed to come into force on August 15, 2025.

Clause 139

Prescribed contribution

ITR
8516(1)

Subsection 8516(1) is amended consequential to the introduction of subsection 8516(4). The preamble is updated to add a reference to subsection (4).

See the additional commentary on the introduction of new subsection 8516(4).

This amendment is deemed to come into force on August 15, 2025.

Transfer deficiency — designated plan

ITR
8516(4)

Subsection 147.2(2) of the Act defines "eligible contribution" to be a contribution made by an employer to a defined benefit provision of a registered pension plan (RPP), where the contribution either satisfies the conditions in that subsection or is prescribed under section 8516 of the Regulations.

New subsection 8516(4) provides a new prescribed contribution that applies when an RPP benefit entitlement is settled via a transfer or payment at a time when the plan is not fully funded. It is intended to permit a top-up contribution to the plan such that the transfer ratio would not be impaired by the payment or transfer of the full benefit entitlement. Broadly, subsection 8516(4) provides that a contribution may be made to an underfunded plan if the plan is not an individual pension plan (as defined in subsection 8300(1)) and if the contribution:

- is made in connection with a payment or transfer of the full present value of a member's benefit entitlement at a time when the plan's transfer ratio is less than 1.0;
- is made pursuant to a recommendation of an actuary; and
- does not exceed an amount determined by the formula $A \times (1 - B)$.

The formula multiplies the present value of the member's benefit entitlement by 1 minus the plan's transfer ratio determined in the most recent actuarial valuation report. For example, if a member requests to transfer a $100,000 present value of benefits to a pension plan of a new employer at a time when the exporting plan has a 0.8 transfer ratio, the employer would be permitted to make a $20,000 contribution to the plan (determined as $\$100,000 \times (1 - 0.8)$).

This amendment is deemed to come into force on August 15, 2025.

Clause 140

ITR
9005

Section 9005 prescribes certain entities for the purposes of the definition “non-reporting financial institution” in subsection 270(1) of the Act.

Consequential to the enactment of new paragraph 9006(m), this section is amended by repealing paragraph (a) in order to remove a labour-sponsored venture capital corporation as prescribed in section 6701 of the Act from the enumerated entities.

This amendment applies to the 2027 and subsequent calendar years.

Clause 141

ITR
9006

Section 9006 prescribes the accounts for the purposes of the definition “excluded account” in subsection 270(1) of the Act.

This section is amended to add to the list of prescribed accounts an account that is an equity or debt interest in a prescribed labour-sponsored venture capital corporation as set out in section 6701, if the total value of contributions to the account made in any calendar year does not exceed 50,000 USD (unless the account is held in an account de
scribed in any of paragraphs (a) to (l)).

These amendments apply to the 2027 and subsequent calendar years.

Clause 142

Class 57

ITR
Schedule II

Class 57 in Schedule II describes certain property that is part of a CCUS project. Generally, such property includes equipment that is to be used solely for capturing carbon dioxide, to prepare or compress captured carbon for transportation, for transporting captured carbon or for storage of captured carbon in a geological formation.

Currently, because generation equipment using any amount of fossil fuels would be ineligible for inclusion in Class 57 if the associated emissions were not subject to capture by a qualified CCUS project, certain equipment that would need to emit a small amount of carbon dioxide for startup purposes (e.g., a hydrogen turbine that requires fossil fuels for start-up) may not be eligible.

Subparagraph (a)(iii) of Class 57 is amended to provide two exceptions to the requirement for carbon dioxide emitted by generation equipment using fossil fuels to be subject to capture by a qualified CCUS project. Consequently, the first new exception provides that this equipment is eligible if fossil fuels are used for no more than 120 hours for each startup of the equipment. The second new exception provides that the equipment is eligible if fossil fuels are used as a fuel source, for any purpose, for no more than 72 hours per calendar year. Fossil fuels may also be used for a combination of the activities described in the two new exceptions.

This amendment applies on or after January 1, 2022.

Coordinating amendments

Clause 143

Bill C-30

Clause 143 includes amendments to the ITR that would apply if Bill C-30, which is currently before Parliament, receives royal assent.

Subclauses (2) to (4)

Subclauses 143(2) to (4) include amendments to various sections of the ITR that are consequential on the provision of temporary immediate expensing for manufacturing and processing buildings in this bill and the provision of temporary immediate expensing for eligible greenhouse buildings in Bill C-30. These amendments update the ITR to include cross-references to all applicable items.

Each ITR amendment is discussed in more detail earlier in this commentary in relation to the first clause that amends the relevant ITR section.

Subclauses (5) to (7)

Subsections (5) to (7) include the application and coming into force rules for all the foregoing subclauses.