
Explanatory Notes Relating to the Goods and Services Tax/Harmonized Sales Tax and Excise Levies

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Preface

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

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

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**Part 3 - Amendments to the Excise Tax Act, the Excise Act, the Excise Act,
2001 and Other Related Texts**

Division 1 – Excise Tax Act and Other Related Texts (GST/HST)

Excise Tax Act

Clause 177

Definitions

ETA

123

Section 123 of the *Excise Tax Act* (the Act) contains definitions that are used throughout Part IX of the Act.

Section 123 is amended by amending the definition “bank” in subsection 123(1), by adding the definition “Lloyd’s association” in subsection 123(1) and by adding new subsection 123(5).

Subclause 177(1)

Definition “bank”

ETA

123(1)

The existing definition “bank” in subsection 123(1) of the Act means a bank listed in Schedule I or II of the *Bank Act* or an “authorized foreign bank” as defined in section 2 of the *Bank Act* (i.e., a foreign bank that is the subject of an order under subsection 524(1) of that Act).

The definition “bank” is amended to exclude a credit union (as defined in this subsection). As a result, a federal credit union, which would be a bank listed in Schedule I of the *Bank Act*, is excluded from the definition “bank”.

This amendment is deemed to have come into force on December 19, 2012.

Subclause 177(2)

Definition “Lloyd’s association”

ETA

123(1)

Subsection 123(1) of the Act is amended to add the new definition “Lloyd’s association”. The new definition “Lloyd’s association” is used in new section 149.1 and amended section 217.1 of the Act. A Lloyd’s association is an association of persons that has the following attributes:

- the association is formed on the plan known as Lloyd’s; and
- under this plan, each member of the association participating in an insurance policy (as defined in this subsection) becomes liable for a stated, limited or proportionate part of the whole amount payable under the insurance policy.

As a result, the definition “Lloyd’s association” is restricted to associations (commonly called syndicates) of one or more persons that are each members of the Society of Lloyd’s (the society incorporated by the *Lloyd’s Act, 1871*, c. 21 (United Kingdom)) and that together issue insurance policies under the supervision of the Society of Lloyd’s.

As a Lloyd’s association is an association, which is included in the definition of “person” in this subsection, a Lloyd’s association is a person for the purposes of Part IX of the Act.

The new definition “Lloyd’s association” is deemed to have come into force on August 10, 2022.

Subclause 177(3)

Meaning of “administration or enforcement of this Part”

ETA

123(5)

Section 123 of the Act is amended to add the new subsection (5). New subsection 123(5) provides an interpretation rule for the expression “administration or enforcement of this Part”. The new subsection provides that, for greater certainty, a reference in Part IX of the Act to administration or enforcement of this Part includes the collection of any amount payable or remittable under Part IX of the Act and the administration of a listed international agreement or of a tax treaty (as defined in subsection 248(1) of the *Income Tax Act*).

This amendment comes into force on royal assent.

Clause 178

Investment plan

ETA

149(5)

Existing subsection 149(5) of the Act defines the term “investment plan” for the purposes of section 149 of the Act. Entities included in the definition “investment plan” in subsection 149(5) are “listed financial institutions” (as defined in subsection 123(1) of the Act) for the purposes of Part IX of the Act. An “investment plan” is a person described by any of paragraphs 149(5)(a) to (g). Existing paragraph 149(5)(a) describes a trust governed by certain plans described by any of subparagraphs 149(5)(a)(i) to (xiii).

Paragraph 149(5)(a) is amended to add new subparagraph 149(5)(a)(iv.2), which describes a first

home savings account (as defined in subsection 146.6(1) of the *Income Tax Act*).

This amendment applies in respect of any taxation year of a person that begins after August 12, 2024.

Clause 179

Lloyd's association

ETA

149.1

New section 149.1 of the Act contains rules that apply to a Lloyd's association (as defined in subsection 123(1) of the Act) for the purposes of Part IX of the Act.

New section 149.1 is deemed to have come into force on August 10, 2022.

149.1(1) – Continuation of Lloyd's association

New subsection 149.1(1) of the Act applies where a Lloyd's association is registered under Subdivision D of Division V of Part IX of the Act and would, in the absence of this subsection, be regarded as having ceased to exist (for example if the Lloyd's association were to be dissolved). In this situation, subsection 149.1(1) provides that the Lloyd's association is deemed for the purposes of Part IX of the Act not to have ceased to exist until the registration of the Lloyd's association is cancelled by the Minister of National Revenue under section 242 of the Act.

149.1(2) – Change in membership

New subsection 149.1(2) of the Act contains a deeming rule that generally provides that a Lloyd's association is deemed to remain the same Lloyd's association despite a change in the membership of the Lloyd's association. Subsection 149.1(2) applies where the membership of a Lloyd's association changes (i.e., existing members leave or new members are added) but the unique number assigned to the Lloyd's association by the Council of Lloyd's (i.e., the council constituted by section 3 of the *Lloyd's Act 1982*, c. 14 (United Kingdom)) does not change as a result of the change of membership. Where these conditions are met, the Lloyd's association is deemed for the purposes of Part IX of the Act to continue as the same Lloyd's association despite the change in membership. As a result, where for example subsection 149.1(2) applies to a Lloyd's association that adds a new member, the change in membership will not affect the registration status or the tax liability of the Lloyd's association.

149.1(3) – Policies issued by Lloyd's association

New subsection 149.1(3) of the Act contains a deeming rule that applies for the purposes of Part IX of the Act. Subsection 149.1(3) applies where the members of a Lloyd's association

participate in an insurance policy (as defined in subsection 123(1) of the Act) and each member is liable for a stated, limited or proportionate part of the whole amount payable under the insurance policy. In this circumstance, subsection 149.1(3) deems the Lloyd's association to be an insurer, to have issued the insurance policy and to be insuring any risk that is insured under the insurance policy.

149.1(4) – Reinsurance to close

New subsection 149.1(4) of the Act generally concerns the situation where members of a Lloyd's association enter into a type of reinsurance agreement (commonly called “reinsurance to close”) with either the members of another Lloyd's association or with a particular person that is prescribed. (Currently, no person is proposed to be prescribed for the purposes of this subsection.) Under such an agreement, the members of the other Lloyd's association or the particular person generally agree to assume the liabilities of the members of the first Lloyd's association respecting the first Lloyd's association's insurance policies. Subsection 149.1(4) contains rules respecting the insurance business of the first Lloyd's association and creates a joint and several, or solidary, liability in respect of the tax liabilities of that Lloyd's association.

Specifically, subsection 149.1(4) applies where a particular agreement meets two conditions.

The first condition is that the particular agreement is entered into by the members of a particular Lloyd's association (referred to in subsection 149.1(4) as the “reinsured members”) and either

- the members of another Lloyd's association (referred to in subsection 149.1(4) as the “reinsuring members”); or
- a particular person that is prescribed by regulation.

(It should be noted that, while “reinsurance to close” agreements exist between the existing members of a Lloyd's association and the new members of the same Lloyd's association, such an agreement would not satisfy the first condition and would not be subject to subsection 149.1(4). Instead, this situation would be treated as a change in membership within the same Lloyd's association and would be subject to the deeming rule in subsection 149.1(2) of the Act.)

The second condition is that, under the terms of the particular agreement, the reinsuring members or the particular person, as the case may be, agree to discharge, procure the discharge of or indemnify the reinsured members against all of the known and unknown liabilities of the reinsured members arising out of all of the insurance policies (referred to in subsection 149.1(4) as the “covered policies”) that are (1) issued by the particular Lloyd's association and (2) allocated to a particular time period for accounting purposes. (This time period is referred to, for Lloyd's accounting purposes, as a “year of account”.) These insurance policies may include insurance policies that are deemed to have been issued by the particular Lloyd's association by

subsection 149.1(3) of the Act or by the application of paragraph 149.1(4)(a) in respect of a previous “reinsurance-to-close” agreement (see below).

Where these two conditions are met in respect of a particular agreement, subsection 149.1(4) (specifically the rules in paragraphs 149.1(4)(a) and (b)) applies, in respect of the particular agreement, to the particular Lloyd’s association, the reinsuring members and the other Lloyd’s association or, as the case may be, to the particular Lloyd’s association and the particular person.

Paragraph 149.1(4)(a) provides that, for the purposes of Part IX of the Act, the other Lloyd’s association or the particular person, as the case may be, is deemed to be an insurer. As a result, the other Lloyd’s association, or the particular person, would be subject to all the rules that apply under Part IX of the Act to an insurer. Furthermore, paragraph 149.1(4)(a) deems, for the purposes of Part IX of the Act, the other Lloyd’s association or the particular person, as the case may be, to have issued the covered policies of the particular agreement and to be insuring any risk that is insured under the covered policies. Paragraph 149.1(4)(a) applies to the other Lloyd’s association or the particular person, as the case may be, as long as the particular agreement is in effect.

Paragraph 149.1(4)(b) provides that the following combinations of persons are jointly and severally, or solidarily, liable for the obligations described in subparagraphs 149.1(4)(b)(i), (ii), (iii) and (iv):

- the particular Lloyd’s association, the other Lloyd’s association and the reinsuring members, in the case where the particular agreement is between the reinsured members and the reinsuring members; or
- the particular Lloyd’s association and the particular person, in the case where the particular agreement is between the reinsured members and the particular person.

Subparagraph 149.1(4)(b)(i) describes the payment of any amount of tax — under Division II or III of Part IX of the Act, under section 218 or subsection 218.1(1) of the Act, or under Division IV.1 of Part IX of the Act — that becomes payable by the particular Lloyd’s association, but only to the extent that the amount can reasonably be considered to relate to the covered policies.

Subparagraph 149.1(4)(b)(ii) describes the remittance of any amount of net tax for any reporting period of the particular Lloyd’s association, but only to the extent that the amount can reasonably be considered to relate to the covered policies.

Subparagraph 149.1(4)(b)(iii) describes the payment of any amount of tax under section 218.01 or subsection 218.1(1.2) of the Act that is determined for a specified year (as defined in section 217 of the Act) of the particular Lloyd’s association, but only to the extent that the amount can reasonably be considered to relate to the covered policies.

Subparagraph 149.1(4)(b)(iv) applies where, prior to the entering into of the particular agreement, the then members of the particular Lloyd's association had entered into an earlier agreement with the members of a third Lloyd's association whereby the members of the particular Lloyd's association agreed to discharge, procure the discharge of or indemnify the members of the third Lloyd's association against the known and unknown liabilities of the members of the third Lloyd's association arising out of all of the insurance policies issued by the third Lloyd's association, which includes one or more of the covered policies of the particular agreement.

Subparagraph 149.1(4)(b)(iv) describes the payment or remittance of any amount that the particular Lloyd's association and the third Lloyd's association are jointly or severally, or solidarily, liable for as a result of the application of paragraph 149.1(4)(b) in respect of the earlier agreement, but only to the extent that the amount can reasonably be considered to relate to the particular insurance policies that are covered both by the particular agreement and by the earlier agreement. Therefore, in the circumstances in which this subparagraph applies, it has the effect of making the particular Lloyd's association, the other Lloyd's association and the reinsuring members or, as the case may be, the particular Lloyd's association and the particular person jointly and severally, or solidarily, liable for the payment or remittance of any amount described in any of subparagraphs 149.1(4)(b)(i) to (iv) that the third Lloyd's association is liable to pay or remit, or is jointly and severally, or solidarily, liable for, but only to the extent that that amount can reasonably be considered to relate to those particular insurance policies.

Consider for example the case where

- In 2020, Lloyd's association #1 issues insurance policies insuring risk ordinarily situated in Alberta ("the Alberta policies");
- On January 1, 2021, the members of Lloyd's association #1 and the members of Lloyd's association #2 enter into an agreement whereby the members of Lloyd's association #2 agree to discharge, procure the discharge of or indemnify the members of Lloyd's association #1 against the known and unknown liabilities arising out of all of the Alberta policies;
- On January 1, 2023, the members of Lloyd's association #2 and the members of Lloyd's association #3 enter into an agreement whereby the members of Lloyd's association #3 agree to discharge, procure the discharge of or indemnify the members of Lloyd's association #2 against the known and unknown liabilities arising out of all of the Alberta policies;
- During 2023 and 2024, Lloyd's association #3 issues insurance policies insuring risk ordinarily situated in Nova Scotia ("the Nova Scotia policies");

- On January 1, 2025, the members of Lloyd’s association #3 and the members of Lloyd’s association #4 enter into an agreement whereby the members of Lloyd’s association #4 agree to discharge, procure the discharge of or indemnify the members of Lloyd’s association #3 against the known and unknown liabilities arising out of all of both the Alberta and the Nova Scotia policies; and
- Each of Lloyd’s association #1, 2, 3 and 4 have a calendar year as their specified year.

In this circumstance, as a result of the application of paragraph 149.1(4)(b),

- If in 2026 the Minister of National Revenue were to assess Lloyd’s association #2 for tax under section 218.01 that is determined for its 2022 specified year in respect of the Alberta policies, Lloyd’s association #3 (and its members) and Lloyd’s association #4 (and its members) would be jointly and severally, or solidarily, liable with Lloyd’s association #2 for the payment of this tax.
- If in 2027 the Minister were to assess Lloyd’s association #3 for tax under section 218.01 and subsection 218.1(1.2) that is determined for its 2024 specified year in respect of the Alberta and the Nova Scotia policies, Lloyd’s association #4 (and its members) would be jointly and severally, or solidarily, liable with Lloyd’s association #3 (and its members) for the payment of this tax.

Clause 180

Real property credits

ETA

193

Existing section 193 of the Act allows a registrant that makes a taxable supply by way of sale of real property (as those terms are defined in subsection 123(1) of the Act) to claim an input tax credit under certain circumstances in respect of previously unrecoverable tax relating to the real property and improvements to it.

Section 193 is amended by amending subsections 193(1) and (2.1).

The amendments to section 193 apply in respect of any supply in respect of which tax becomes payable — or would become payable in the absence of section 167 of the Act — after August 14, 2025.

Subclause 180(1)**Sale of real property**

ETA

193(1)

Existing subsection 193(1) of the Act generally provides for an input tax credit that can be claimed under certain circumstances by a registrant in respect of previously unrecoverable tax relating to a taxable sale of real property. While subsection 193(1) only refers to taxable sales of real property, subsections 204(3), 205(1) and 205(3) of the Act provide that subsection 193(1) also applies under certain circumstances to allow the claiming of an input tax credit in respect of personal property of a financial institution that is a registrant (as those terms are defined in subsection 123(1) of the Act).

The amount of the input tax credit that can be claimed by the registrant in respect of the taxable sale is generally determined by the formula $A \times B$. Element A of the formula is the lesser of the amount determined for paragraph (a) of element A and the amount determined for paragraph (b) of element A. Paragraph (b) is the tax that is or would be, in the absence of section 167 or 167.11 of the Act, payable in respect of the taxable supply.

Paragraph (b) of element A in the formula in subsection 193(1) is amended so that, where the registrant is a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act) at the particular time of the taxable supply of the real property, the tax that is or would be payable in respect of the taxable supply is adjusted by removing the provincial component of the tax payable and then adding an amount in respect of each participating province determined based on the federal component of the tax payable, the tax rate for the participating province, the federal tax rate and the registrant's prescribed percentage for the participating province and its taxation year that includes the particular time. As a result, in the case of a taxable supply of real property by a registrant that is a selected listed financial institution, the amount determined for paragraph (b) in respect of the taxable supply would be determined in an analogous manner to the registrant's determination of the basic tax content of the real property at the particular time (i.e., paragraph (a) of element A of the formula in subsection 193(1)).

Specifically, where the registrant is a selected listed financial institution at the particular time of the taxable supply of the real property, the amount determined for paragraph (b) of element A is now determined by new subparagraph (b)(ii) of element A. Subparagraph (b)(ii) provides that the amount determined for paragraph (b) is the amount determined by the formula $(C + D) - E$.

Element C of the formula is the tax that is or would be, in the absence of section 167, payable in respect of the taxable supply.

Element D is the total of all amounts, each of which is determined for a participating province (as defined in subsection 123(1)), by the formula $F \times G \times (H \div I)$, where

- Element F is the tax under subsection 165(1) of the Act that is, or that would be in the absence of section 167, payable in respect of the taxable supply;
- Element G is the registrant's percentage for the participating province determined for the purposes of subsection 225.2(2) of the Act (i.e., the special attribution method formula for selected listed financial institutions) for the registrant's taxation year (as defined in subsection 123(1)) that includes the particular time;
- Element H is the tax rate for the participating province; and
- Element I is the tax rate set out in subsection 165(1).

Element E is the tax under subsection 165(2) of the Act that is or would be, in the absence of section 167, payable in respect of the taxable supply.

In addition, paragraph (b) is amended by deleting the reference to section 167.11, which, because of its time-limited effect, would no longer apply to a taxable supply.

Subclause 180(2)

Limitation

ETA

193(2.1)

Subsection 193(2.1) of the Act applies if a taxable supply of real property in respect of which an input tax credit is claimed under either subsection 193(1) or (2) of the Act is made at a particular time by a public sector body (as defined in subsection 123(1) of the Act) to another person with whom the public sector body is not dealing at arm's length (within the meaning of subsection 126(1) of the Act).

When subsection 193(2.1) applies, the value of element A in the formula in subsection 193(1) or the input tax credit under subsection 193(2), as the case may be, shall not exceed the lesser of the basic tax content of the real property at the time when the sale is made and the amount determined by the formula in paragraph 193(2.1)(b). Element C of this formula is currently the tax that is or would be, in the absence of section 167 of the Act, payable in respect of the taxable supply.

Element C of the formula in paragraph 193(2.1)(b) is amended so that, where the public sector body is a selected listed financial institution at the particular time that the taxable supply of the real property is made, the tax that is or would be payable in respect of the taxable supply is adjusted by removing the provincial component of the tax payable and then adding an amount in respect of each participating province determined based on the federal component of the tax payable, the tax rate for the participating province, the federal tax rate and the public sector

body's prescribed percentage for the participating province and its taxation year that includes the particular time. As a result, in the case of a taxable supply of real property by a public sector body that is a selected listed financial institution, the amount determined for element C in respect of the taxable supply would be determined in an analogous manner to the public sector body's determination of the basic tax content of the real property at the particular time (i.e., paragraph 193(2.1)(a)).

Specifically, where the public sector body is a selected listed financial institution at the particular time of the taxable supply of the real property, the amount determined for element C of the formula in paragraph 193(2.1)(b) is now determined by new subparagraph (ii) of element C, which provides that the amount determined for element C is the amount determined by the formula $(D + E) - F$.

Element D of the formula is the tax that is or would be, in the absence of section 167, payable in respect of the taxable supply.

Element E is the total of all amounts, each of which is determined for a participating province (as defined in subsection 123(1)), by the formula $G \times H \times (I \div J)$, where

- Element G is the tax under subsection 165(1) of the Act that is or would be, in the absence of section 167, payable in respect of the taxable supply;
- Element H is the public sector body's percentage for the participating province determined for the purposes of subsection 225.2(2) of the Act (i.e., the special attribution method formula for selected listed financial institutions) for the public sector body's taxation year that includes the particular time;
- Element I is the tax rate for the participating province; and
- Element J is the tax rate set out in subsection 165(1).

Element F is the tax under subsection 165(2) of the Act that is or that would be, in the absence of section 167, payable in respect of the taxable supply.

Clause 181

Capital personal property of financial institutions

ETA

205

Existing section 205 of the Act provides that change-in-use rules for capital real property also apply to capital personal property of a financial institution in certain circumstances.

Section 205 is amended by amending subsection 205(4) and repealing subsection 205(5).

These amendments come into force on royal assent.

Subclause 181(1)

Acquisition of a business

ETA

205(4)

Existing subsection 205(4) of the Act applies to financial institutions that acquire all or part of a business of a registrant. It provides that, where the conditions in paragraphs 205(4)(a) and (b) are met, the change-in-use rules in subsections 193(1) and 206(4) and (5) of the Act apply to all capital personal property acquired from the registrant.

Subsection 205(4) is amended to correct an error in a statutory cross-reference.

Subclause 181(2)

Acquisition of a business

ETA

205(5)

Existing subsection 205(5) of the Act applies to financial institutions that acquire all or part of a business of a registrant. Subsection 205(5) provides that, where the conditions in paragraphs 205(5)(a), (b) and (c) are met, the change-in-use rules in subsection 206(2) of the Act apply to all capital personal property acquired from the registrant and for which the registrant would not have claimed an input tax credit. Subsection 205(5) was enacted to be consistent with the “notional input tax credit” rules, which, at the time of subsection 205(5)’s enactment, were contained in section 176 of the Act but which have since been repealed.

Subsection 205(5) is repealed, consistent with the repeal of the “notional input tax credit” rules.

Clause 182

Canadian activity

ETA

217

The existing definition “Canadian activity” in section 217 of the Act describes any activity of a person carried on, engaged in or conducted in Canada. The definition “Canadian activity” is relevant for the determination of an amount of qualifying consideration or an external charge (as those terms are defined in section 217) of a qualifying taxpayer (within the meaning of subsection 217.1(1) of the Act) for a specified year (as defined in section 217) of the qualifying taxpayer.

The definition “Canadian activity” is amended to clarify that it includes an activity of a person in respect of property described in any of new paragraphs (a), (b), (c), (d) or (e).

Paragraph (a) describes an insurance policy (as defined in subsection 123(1) of the Act) that is issued by the person and that insures a risk in respect of property ordinarily situated in Canada or in respect of a person resident in Canada.

Paragraph (b) describes a debt that arises from either

- the deposit of funds in Canada, if the instrument issued as evidence of the deposit is a negotiable instrument; or
- the lending of money that is primarily for use in Canada.

Paragraph (c) describes a debt for all or part of the consideration for a supply of real property (as defined in subsection 123(1)) that is situated in Canada.

Paragraph (d) describes a debt for all or part of the consideration for a supply of personal property (as defined in subsection 123(1)) that is for use primarily in Canada.

Paragraph (e) describes a debt for all or part of the consideration for a supply of a service (as defined in subsection 123(1)) that is to be performed primarily in Canada.

These amendments are deemed to have come into force on August 13, 2024. These amendments also apply in respect of the specified year of a person that includes August 13, 2024.

Clause 183

Imported supplies of financial institutions

ETA

217.1

Existing section 217.1 of the Act provides various interpretation rules that apply in respect of section 218.01 and subsection 218.1(1.2) of the Act, which are self-assessment provisions that apply to financial institutions that are qualifying taxpayers (as described in subsection 217.1(1)).

Amendments to section 217.1 amend subsections 217.1(6) and (7) and add new subsections 217.1(9) to (12) in respect of the application of the self-assessment provisions in section 218.01 and subsection 218.1(1.2) to financial institutions that are Lloyd's associations (as defined by subsection 123(1) of the Act).

Subclause 183(1)

Qualifying rule for credits and rebates

ETA

217.1(6)

Existing subsection 217.1(6) of the Act applies where

- an amount (referred to in subsection 217.1(6) as a “qualifying expenditure”) of qualifying consideration or of an external charge (as those terms are defined in section 217 of the Act) of a qualifying taxpayer (as described in subsection 217.1(1) of the Act) in respect of an outlay made, or expense incurred, outside Canada is greater than zero; and
- tax under section 218.01 or subsection 218.1(1.2) of the Act in respect of the qualifying expenditure becomes payable by the qualifying taxpayer, or is paid by the qualifying taxpayer without having become payable.

Where subsection 217.1(6) applies in respect of a qualifying expenditure of a qualifying taxpayer, paragraphs 217.1(6)(a), (b) and (c) set out interpretation rules that apply for the purposes of determining an input tax credit or an eligible amount (as defined in subsection 261.01(1) of the Act) of the qualifying taxpayer. Paragraph 217.1(6)(a) provides a deeming rule in respect of the whole or part of property or of a qualifying service (as defined in section 217) to which the qualifying expenditure is attributable. Paragraph 217.1(6)(a) provides that this whole or part of property is referred to in subsections 217.1(6) and (8) of the Act as “attributable property” and that this whole or part of a qualifying service is referred to in subsections 217.1(6) and (8) as an “attributable service”.

As new subsection 217.1(10) of the Act also refers to “attributable property” and “attributable service”, paragraph 217.1(6)(a) is amended to provide that the whole or part of property to which the qualifying expenditure is attributable is referred to throughout section 217.1 of the Act as “attributable property” and that the whole or part of a qualifying service to which the qualifying expenditure is attributable is referred to throughout section 217.1 as an “attributable service”.

The amendments to paragraph 217.1(6)(a) are deemed to have come into force on August 10, 2022.

Subclause 183(2)

Qualifying rule for credits and rebates – internal charge

ETA

217.1(7)

Existing subsection 217.1(7) of the Act applies where

- tax (referred to in subsection 217.1(7) as “internal tax”) under section 218.01 or subsection 218.1(1.2) of the Act in respect of an internal charge (as described in subsection 217.1(4) of the Act) becomes payable by a qualifying taxpayer, or is paid by the qualifying taxpayer without having become payable; and
- the internal charge is determined based in whole or in part on the inclusion of an outlay made, or expense incurred, outside Canada by the qualifying taxpayer.

Where subsection 217.1(7) applies in respect of an outlay made, or expense incurred, outside Canada, paragraphs 217.1(7)(a), (b) and (c) set out interpretation rules that apply for the purposes of determining an input tax credit or an eligible amount of the qualifying taxpayer. Paragraph 217.1(7)(a) provides a deeming rule in respect of the whole or part of property or of a qualifying service to which the outlay or expense is attributable. Paragraph 217.1(7)(a) provides that this whole or part of property is referred to in subsections 217.1(7) and (8) of the Act as “internal property” and that this whole or part of a qualifying service is referred to in subsections 217.1(7) and (8) as an “internal service”.

As new subsection 217.1(10) of the Act also refers to “internal property” and “internal service”, paragraph 217.1(7)(a) is amended to provide that the whole or part of property to which the outlay or expense is attributable is referred to throughout section 217.1 of the Act as “internal property” and that the whole or part of a qualifying service to which the outlay or expense is attributable is referred throughout section 217.1 as an “internal service”.

The amendments to paragraph 217.1(7)(a) are deemed to have come into force on August 10, 2022.

Subclause 183(3)

Lloyd’s associations

ETA

217.1(9) to (12)

217.1(9) – Lloyd’s associations

New subsection 217.1(9) of the Act provides rules that apply in respect of a Lloyd’s association for the purposes of Division IV of Part IX of the Act. These rules are contained in paragraphs 217.1(9)(a) to (j).

New subsection 217.1(9) applies in respect of any specified year of a person that ends after August 9, 2022. However, a special coming-into-force rule applies in respect of new paragraph 217.1(9)(b) in respect of any specified year of a person that ends after August 9, 2022 but before August 13, 2024 (discussed below in the description of paragraph 217.1(9)(b)).

New paragraph 217.1(9)(a) deems the Lloyd’s association to be a qualifying taxpayer throughout a specified year (as defined in section 217 of the Act) of the Lloyd’s association where the following three conditions are met:

- the members of the Lloyd’s association are liable at any time in the specified year under an insurance policy (as defined in subsection 123(1) of the Act);
- the insurance policy was issued by the Lloyd’s association (including an insurance policy

that the Lloyd's association is deemed to have issued by subsection 149.1(3) or paragraph 149.1(4)(a) of the Act); and

- the insurance policy insures a risk in respect of property ordinarily situated in Canada or in respect of a person resident in Canada.

As a qualifying taxpayer, the Lloyd's association will be subject to the self-assessment provisions in section 218.01 and subsection 218.1(1.2) of the Act.

New paragraph 217.1(9)(b) contains a deeming rule that is relevant for the determination of qualifying consideration, an internal charge, or an external charge, for a specified year of the Lloyd's association, including under new paragraphs 217.1(9)(c), (e) and (g). Specifically, paragraph 217.1(9)(b) provides that any activity of a member of the Lloyd's association is deemed to be a Canadian activity of the Lloyd's association if the activity is in respect of an insurance policy

- that was issued by the Lloyd's association (including an insurance policy that the Lloyd's association is deemed to have issued by subsection 149.1(3) or paragraph 149.1(4)(a)); and
- that insures a risk in respect of property ordinarily situated in Canada or in respect of a person resident in Canada.

However, in respect of any specified year of a person that ends after August 9, 2022 but before August 13, 2024, paragraph 217.1(9)(b) instead provides that any Canadian activity of a member of the Lloyd's association in respect of an insurance policy that was issued by the Lloyd's association (including an insurance policy that the Lloyd's association is deemed to have issued by subsection 149.1(3) or paragraph 149.1(4)(a)) is deemed to be a Canadian activity of the Lloyd's association.

New paragraph 217.1(9)(c) generally provides that the Lloyd's association is deemed to have an amount of qualifying consideration in respect of an outlay made, or expense incurred, outside Canada by a member of the Lloyd's association in certain circumstances. Specifically, paragraph 217.1(9)(c) applies where the following conditions are met:

- a member of the Lloyd's association makes an outlay, or incurs an expense, outside Canada (including an amount described in subsection 217.1(2) of the Act);
- the outlay or expense may reasonably be regarded as being applicable to a Canadian activity of the Lloyd's association (as deemed by paragraph 217.1(9)(b) or as defined in section 217); and
- a particular amount in respect of the outlay or expense would be qualifying consideration

for a particular specified year of the member if the outlay or expense were applicable to a Canadian activity of the member and the member were a qualifying taxpayer throughout the particular specified year.

Where paragraph 217.1(9)(c) applies in respect of an outlay made, or expense incurred, outside Canada by the member of the Lloyd's association, paragraph 217.1(9)(c) deems the amount determined by the formula A minus B to be qualifying consideration for the specified year of the Lloyd's association in which the particular specified year of the member ends. Element A of the formula is the particular amount in respect of the outlay or expense (i.e., the amount that would generally be qualifying consideration for the particular specified year of the member). Element B is the total of all amounts paid to the member as a reimbursement of the outlay or expense.

New paragraph 217.1(9)(d) generally provides that a member of the Lloyd's association is not required to self-assess tax in respect of an outlay or expense where the Lloyd's association is required to include an amount in respect of the outlay or expense in its determination of tax. Specifically, paragraph 217.1(9)(d) applies where

- an amount in respect of an outlay or expense is a particular amount of qualifying consideration for a specified year of the Lloyd's association (including an amount that is deemed to be qualifying consideration for the specified year under paragraph 217.1(9)(c)); and
- an amount in respect of the same outlay or expense is another amount of qualifying consideration for a specified year of a member of the Lloyd's association.

In this circumstance, paragraph 217.1(9)(d) provides that the other amount of qualifying consideration is not to be included in determining tax under section 218.01 or subsection 218.1(1.2) for the specified year of the member.

New paragraph 217.1(9)(e) generally provides that the Lloyd's association is deemed to have an external charge in respect of an outlay made, or expense incurred, outside Canada by a member of the Lloyd's association in certain circumstances. Specifically, paragraph 217.1(9)(e) applies where the following conditions are met:

- a member of the Lloyd's association makes an outlay, or incurs an expense, outside Canada (including an amount described in subsection 217.1(2));
- the outlay or expense may reasonably be regarded as being applicable to a Canadian activity of the Lloyd's association (as deemed by paragraph 217.1(9)(b) or as defined in section 217); and
- a particular amount in respect of the outlay or expense would be an external charge for a

particular specified year of the member if the outlay or expense were applicable to a Canadian activity of the member and the member were a qualifying taxpayer throughout the particular specified year.

Where paragraph 217.1(9)(e) applies in respect of an outlay made, or expense incurred, outside Canada by the member of the Lloyd's association, paragraph 217.1(9)(e) deems the amount determined by the formula A minus B to be an external charge for the specified year of the Lloyd's association in which the particular specified year of the member ends. Element A of the formula is the particular amount in respect of the outlay or expense (i.e., the amount that would generally be an external charge for the particular specified year of the member). Element B is the total of all amounts paid to the member as a reimbursement of the outlay or expense.

New paragraph 217.1(9)(f), like paragraph 217.1(9)(d), generally provides that a member of the Lloyd's association is not required to self-assess tax in respect of an outlay or expense where the Lloyd's association is required to include an amount in respect of the outlay or expense in its determination of tax. Specifically, paragraph 217.1(9)(f) applies where

- an amount in respect of an outlay or expense is a particular external charge for a specified year of the Lloyd's association (including an amount that is deemed to be an external charge for the specified year under paragraph 217.1(9)(e)); and
- an amount in respect of the same outlay or expense is another external charge for a specified year of a member of the Lloyd's association.

In this circumstance, paragraph 217.1(9)(f) provides that the other external charge is not to be included in determining tax under section 218.01 or subsection 218.1(1.2) for the specified year of the member.

New paragraph 217.1(9)(g) generally provides that the Lloyd's association is deemed to have an internal charge in certain circumstances where a member of the Lloyd's association would have an internal charge that relates to a Canadian activity of the Lloyds association. Specifically, paragraph 217.1(9)(g) applies where the following conditions are met:

- a transaction or dealing occurs between a particular qualifying establishment (as those terms are defined in section 217) in Canada of a member of the Lloyd's association and another qualifying establishment of the member in a country other than Canada;
- the transaction or dealing may reasonably be regarded as being applicable to a Canadian activity of the Lloyd's association (as deemed by paragraph 217.1(9)(b) or as defined in section 217); and
- a part of an amount in respect of the transaction or dealing would be an internal charge

(as described in subsection 217.1(4) of the Act) for a particular specified year of the member if the member were a qualifying taxpayer throughout the particular specified year.

Where paragraph 217.1(9)(g) applies in respect of a transaction or dealing, the deeming rules in subparagraphs 217.1(9)(g)(i) and (ii) apply in respect of the transaction or dealing.

Subparagraph 217.1(9)(g)(i) deems the amount determined by the formula A minus B to be an internal charge for the specified year of the Lloyd's association in which the particular specified year of the member ends. Element A of the formula is the part of the amount in respect of the transaction or dealing (i.e., the part of the transaction or dealing that would be an internal charge for the particular specified year of the member). Element B is the total of all amounts paid to the member as a reimbursement of an outlay made, or expense incurred, outside Canada by the member that is included in the determination of the part of the amount in respect of the transaction or dealing (i.e., the part included in element A).

Subparagraph 217.1(9)(g)(ii) contains a deeming rule that applies for the purposes of subsection 217.1(7) of the Act so that the Lloyd's association may be able to use that subsection to potentially claim an input tax credit in respect of tax that the Lloyd's association may pay on an amount determined by subparagraph 217.1(9)(g)(i) to be an internal charge for the specified year of the Lloyd's association in which the particular specified year of the member ends.

Subparagraph 217.1(9)(g)(ii) provides that, for each outlay made, or expense incurred, outside Canada by the member that is included in the determination of the part of the amount (i.e., element A of the formula in subparagraph 217.1(9)(g)(i)) in respect of the transaction or dealing

- the outlay or expense is deemed not to have been made or incurred by the member; and
- the amount determined by the formula A minus B is deemed to be an outlay made, or expense incurred, outside Canada by the Lloyd's association, with element A being the amount of the outlay made, or expense incurred, outside Canada by the member and element B being the total of all amounts paid to the member as a reimbursement of the outlay or expense.

New paragraph 217.1(9)(h) generally provides that a member of the Lloyd's association is not required to self-assess tax in respect of a transaction or dealing where the Lloyd's association is required to include an amount in respect of the transaction or dealing in its determination of tax. Specifically, paragraph 217.1(9)(h) applies where

- a part of an amount in respect of a transaction or dealing is a particular internal charge for a specified year of the Lloyd's association (including an amount that is deemed to be an internal charge for the specified year under subparagraph 217.1(9)(g)(i)); and

- a part of the same amount is another internal charge for a specified year of a member of the Lloyd's association.

In this circumstance, paragraph 217.1(9)(h) provides that the other internal charge is not to be included in determining tax under section 218.01 or subsection 218.1(1.2) for the specified year of the member.

New paragraph 217.1(9)(i) deems the Lloyd's association not to deal at arm's length with any of the persons described in subparagraphs 217.1(9)(i)(i) and (ii). As a result, in determining a permitted deduction for a specified year of the Lloyd's association,

- a supply made to the Lloyd's association by any of the described persons could not be a specified arm's length supply (as defined in section 217) and consideration for such a supply could not be described by paragraph (i) of the definition "permitted deduction" in section 217; and
- consideration for a supply made to the Lloyd's association would not be described by paragraph (e) of the definition "permitted deduction" if the supply were part of a transaction or series of transactions (as described in subsection 217.1(3) of the Act) in which any of the described persons was a participant.

Subparagraph 217.1(9)(i)(i) describes the Society of Lloyd's (the society incorporated by the *Lloyd's Act, 1871*, c. 21 (United Kingdom)). Subparagraph 217.1(9)(i)(ii) describes a person referred to in any of subparagraphs 14(2)(a)(ii) to (vii) of the *Lloyd's Act 1982*, c. 14 (United Kingdom). The persons referred to in these subparagraphs are generally certain agents, brokers, and other professionals that provide services to the Lloyd's association and that are regulated by the Council of Lloyd's (i.e., the council constituted by section 3 of the *Lloyd's Act 1982*).

New paragraph 217.1(9)(j) deems the members of the Lloyd's association not to deal at arm's length with any of the persons described in subparagraph 217.1(9)(i)(i) or (ii) in respect of any supply, transaction or series of transactions that may reasonably be regarded as being applicable to an activity of the Lloyd's association. As a result, in determining a permitted deduction for a specified year of a member of the Lloyd's association in respect of a supply made to the member that is, for example, in respect of insurance policies issued by the Lloyd's association,

- if the supply is made by any of the described persons, the supply could not be a specified arm's length supply (as defined in section 217) and consideration for the supply could not be described by paragraph (i) of the definition "permitted deduction" in section 217; and
- consideration for the supply could not be described by paragraph (e) of the definition "permitted deduction" if the supply is part of a transaction or series of transactions (as described in subsection 217.1(3)) in which any of the described persons is a participant.

217.1(10) – Lloyd’s – credits and rebates

New subsection 217.1(10) of the Act provides rules that generally facilitate the claiming of an input tax credit in respect of tax payable by a Lloyd’s association in respect of an amount that is deemed to be qualifying consideration, an internal charge or an external charge as a result of the application of subsection 217.1(9) of the Act. Specifically, subsection 217.1(10) contains rules in paragraphs 217.1(10)(a) and (b) that apply for the following purposes in respect of an amount of tax under section 218.01 or subsection 218.1(1.2) of the Act for a specified year of a Lloyd’s association:

- applying subsections 217.1(6) and (7) of the Act in respect of the amount of tax; and
- determining an input tax credit under section 169 of the Act in respect of the amount of tax.

Paragraph 217.1(10)(a) applies where the amount of tax is in respect of qualifying consideration that is deemed to be qualifying consideration for the specified year under paragraph 217.1(9)(c) or is in respect of an external charge that is deemed to be an external charge for the specified year under paragraph 217.1(9)(e). In this case, the attributable property or attributable service (as those terms are described in paragraph 217.1(6)(a)) to which the qualifying consideration or external charge relates is deemed to have been acquired by the Lloyd’s association.

Paragraph 217.1(10)(b) applies where the amount of tax is in respect of an internal charge that is deemed to be an internal charge for the specified year under paragraph 217.1(9)(g). In this case, the internal property or internal service (as those terms are described in paragraph 217.1(7)(a)) to which the internal charge relates is deemed to have been acquired by the Lloyd’s association.

New subsection 217.1(10) applies in respect of any specified year of a person that ends after August 9, 2022.

217.1(11) – Lloyd’s – reinsurance to close

New subsection 217.1(11) of the Act provides rules that apply for the purposes of Division IV of Part IX of the Act and concerns the situation where members of a Lloyd’s association enter into an agreement that is described in new subsection 149.1(4) of the Act, which is generally a type of reinsurance agreement, commonly called “reinsurance to close”, with either the members of another Lloyd’s association or with a particular person that is prescribed for the purposes of subsection 149.1(4) (currently, no person is intended to be prescribed for purposes of that subsection). See the description of subsection 149.1(4) for more information respecting these agreements.

Subsection 217.1(11) applies in respect of an agreement where:

- the agreement is entered into by the members of a particular Lloyd's association and either the members of another Lloyd's association or a particular person that is prescribed for the purposes of subsection 149.1(4);
- the agreement is described in subsection 149.1(4); and
- the agreement applies in respect of one or more insurance policies that insure a risk in respect of property ordinarily situated in Canada or in respect of a person resident in Canada.

Where subsection 217.1(11) applies in respect of an agreement, the rules in paragraphs 217.1(11)(a) and (b) apply.

Paragraph 217.1(11)(a) provides that the other Lloyd's association or the particular person, as the case may be, is deemed to be a qualifying taxpayer throughout every specified year of the other Lloyd's association or of the particular person that includes a time at which the agreement is in effect. As a qualifying taxpayer, the other Lloyd's association or the particular person, as the case may be, will be subject to the self-assessment provisions in section 218.01 and subsection 218.1(1.2) of the Act.

Paragraph 217.1(11)(b) applies in the case where the agreement is entered into by a particular person that is prescribed for the purposes of subsection 149.1(4). Paragraph 217.1(11)(b) deems the particular person not to deal at arm's length with any of the persons described in subparagraphs 217.1(11)(b)(i) and (ii). As a result, a supply made to the particular person by any of the described persons could not be a specified arm's length supply (as defined in section 217 of the Act) and consideration for such a supply could not be described by paragraph (i) of the definition "permitted deduction" in section 217. In addition, consideration for a supply made to the particular person would not be described by paragraph (e) of the definition "permitted deduction" if the supply were part of a transaction or series of transactions in which any of the described persons was a participant.

Subparagraph 217.1(11)(b)(i) describes the Society of Lloyd's (the society incorporated by the *Lloyd's Act, 1871*, c. 21 (United Kingdom)). Subparagraph 217.1(11)(b)(ii) describes a person referred to in any of subparagraphs 14(2)(a)(ii) to (vii) of the *Lloyd's Act 1982*, c. 14 (United Kingdom) (see the description of subparagraph 217.1(9)(i)(ii) of the Act for more information respecting these persons).

New subsection 217.1(11) applies in respect of any specified year of a person that ends after August 9, 2022.

217.1(12) – Lloyd’s – members

New subsection 217.1(12) of the Act provides an exception to the general rule contained in subsection 217.1(1) of the Act for determining if a person is a qualifying taxpayer throughout a specified year of the person. Subsection 217.1(12) generally provides that a person is not a qualifying taxpayer for a specified year of the person where the sole basis for the person being a qualifying taxpayer is that the person is an insurer only by virtue of being a member of a Lloyd’s association. Specifically, subsection 217.1(12) applies to a person that is a member of a Lloyd’s association at any time in a specified year of the person and that is a person referred to in subparagraph 149(1)(a)(v) of the Act at any time in the specified year (i.e., the person is either an insurer or the person’s principal business is providing insurance under insurance policies (as those terms are defined in subsection 123(1) of the Act)). Subsection 217.1(12) provides that such a person is, despite subsection 217.1(1), not a qualifying taxpayer throughout the specified year if, throughout the specified year, the person meets all of the following conditions:

- the person is not a person referred to in any of subparagraphs 149(1)(a)(i) to (iv) and (vi) to (xi) of the Act;
- the person is not a financial institution because of paragraph 149(1)(b) or (c) of the Act (i.e., it is not a *de minimis* financial institution); and
- the person does not carry on an insurance business in Canada outside of any Lloyd’s association.

New subsection 217.1(12) applies in respect of any specified year of a person that ends after August 9, 2022.

Clause 184**Filing of returns**

ETA

238

Section 238 of the Act provides for the filing of GST/HST returns by registrants (as defined in subsection 123(1) of the Act), as well as by certain non-registered persons, and provides for filing-due dates for those returns.

Section 238 is amended by amending subsection 238(2.1) and by adding new subsection 238(3.1).

Subclause 184(1)**Filing by certain selected listed financial institutions**

ETA

238(2.1)

Existing subsection 238(2.1) of the Act requires a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act) that is a monthly or quarterly filer to file an interim return for each reporting period (as defined in subsection 123(1) of the Act) within one month after the end of the reporting period and to file a final return for each reporting period within six months after the end of the fiscal year in which the reporting period ends.

Subsection 238(2.1) is amended to address an ambiguity and clarify that it applies (i.e., it imposes an obligation to file both interim and final returns for a reporting period within the time limits set out in subsection 238(2.1)) to a selected listed financial institution in respect of a reporting period of the financial institution where the reporting period is any period other than a fiscal year (as defined in subsection 123(1)).

The amendment to subsection 238(2.1) applies in respect of reporting periods that end after August 15, 2025.

Subclause 184(2)**Return – deceased individual**

ETA

238(3.1)

New subsection 238(3.1) of the Act provides an exception to the filing-due dates for returns required to be filed under any of subsections 238(1), (2), (2.1) or (3) of the Act in the case where an individual (as defined in subsection 123(1) of the Act) has died. It generally provides for a minimum six-month period following the death of the individual during which no return for a reporting period of the individual or of the estate of the individual is required to be filed.

Specifically, subsection 238(3.1) applies in respect of a reporting period of an individual or the estate of the individual where

- the individual dies on a particular day; and
- a return, interim return or final return for the reporting period would, in the absence of that subsection, be required to be filed under any of subsections 238(1), (2), (2.1) or (3) on or before a day that is both
 - on or after the particular day; and
 - less than six months after the particular day.

Where subsection 238(3.1) applies in respect of a reporting period of an individual or the estate of an individual, it provides that the estate of the individual must file the return, interim return or final return, as the case may be, with the Minister of National Revenue on or before the last day of the sixth month after the month that includes the particular day of the individual's death.

It should be noted that subsections 228(2) and (2.3) of the Act generally provide that the net tax (within the meaning of subsection 225(1) of the Act) for a reporting period of a person is required to be remitted to the Receiver General on or before the day that the person's return or final return, as the case may be, is required to be filed with the Minister and that subsection 228(2.1) of the Act provides that the interim net tax (within the meaning of paragraph 228(2.1)(a)) for a reporting period of a person is required to be remitted to the Receiver General on or before the day that the interim return for the reporting period is required to be filed. As a result, where subsection 238(3.1) applies to extend the time to file a return, interim return or final return for a reporting period of a person, it will have the effect of extending the time to remit net tax or interim net tax for the reporting period.

Subsection 238(3.1) applies in respect of returns, interim returns and final returns that, in the absence of that subsection, would be required to be filed under any of subsections 238(1) to (3) on or before a day that is after August 15, 2025.

Clause 185

Financial institution annual information return

ETA

273.2

Existing section 273.2 of the Act requires a reporting institution (within the meaning of subsection 273.2(2)) to file an information return for a fiscal year of the reporting institution with the Minister of National Revenue.

Section 273.2 is amended by amending subsection 273.2(3) and by adding new subsection 273.2(3.1).

The amendments to section 273.2 apply in respect of information returns that, in the absence of new subsection 273.2(3.1), would be required to be filed under subsection 273.2(3) on or before a day that is after August 15, 2025.

273.2(3) – Information return for reporting institution

Existing subsection 273.2(3) of the Act requires a reporting institution to file an information return for a fiscal year of the reporting institution with the Minister of National Revenue in prescribed form containing prescribed information within six months after the end of the fiscal year.

Subsection 273.2(3) is amended to provide that it is subject to new subsection 273.2(3.1) of the Act.

273.2(3.1) – Information return – deceased individual

New subsection 273.2(3.1) of the Act provides an exception to the filing-due date for information returns required to be filed under subsection 273.2(3) of the Act in the case where an individual (as defined in subsection 123(1) of the Act) that is also a reporting institution has died. It generally provides for a minimum six-month period following the death of the individual during which no information return for a fiscal year of the individual is required to be filed.

Specifically, subsection 273.2(3.1) applies where

- an individual is a reporting institution within the meaning of subsection 273.2(2) of the Act throughout a fiscal year of the individual;
- the individual dies on a particular day; and
- an information return for the fiscal year would, in the absence of subsection 273.2(3.1), be required to be filed under subsection 273.2(3) on or before a day that is both
 - on or after the particular day; and
 - less than six months after the particular day.

Where subsection 273.2(3.1) applies in respect of an information return for a fiscal year of an individual, it requires that the estate of the individual file the information return for the fiscal year with the Minister of National Revenue on or before the last day of the sixth month after the month that includes the particular day of the individual's death.

Clause 186

Inspections

ETA

288(1)(c)

Existing paragraph 288(1)(c) of the Act states that an authorized person may, for the administration and enforcement of Part IX of the Act (see commentary in subsection 123(5) of the Act), require any person to answer all proper questions, as long as those proper questions relate to such administration and enforcement.

Paragraph 288(1)(c) is amended to clarify that these proper questions may relate to either the administration or enforcement of Part IX of the Act, rather than requiring the questions be related to both administration and enforcement. This change brings the language of paragraph 288(1)(c)

in line with other sections of the Act and aligns with the new interpretation rule for this expression contained in new subsection 123(5).

This amendment comes into force on royal assent.

Clause 187

Requirement to provide documents or information

ETA

289

Existing subsection 289(1) of the Act states that the Minister of National Revenue may, subject to subsection 289(2) of the Act, for any purpose related to the administration or enforcement of a listed international agreement or of Part XI of the Act, require that any person provide the Minister with information or documents related to that purpose.

Existing paragraph 289(3)(b) of the Act provides that a judge of the Federal Court may, on application by the Minister, authorize the Minister to impose on a third party a requirement to provide information requested by the Minister under subsection 289(1) relating to one or more unnamed persons. This requirement must be made to verify compliance by the person or persons in the group with any duty or obligation under Part IX of the Act.

Paragraph 289(3)(b) is amended to clarify that the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under Part IX of the Act or for a purpose related to the administration of a listed international agreement or of a tax treaty. Technical drafting amendments are also made to subsection 289(1) as a consequence of the amendments to subsection 289(3).

The amendments made to section 289 come into force on royal assent.

Clause 188

Meaning of *foreign-based information or document*

ETA

292

Existing subsection 292(1) of the Act provides that, for the purposes of section 292 of the Act, a foreign-based information or document means any information or document that is available or located outside Canada and that may be relevant to the administration or enforcement of Part IX of the Act. This includes the collection of any amount payable or remittable under Part IX of the Act by any person.

Subsection 292(1) is amended to remove the text referencing the collection of any amount payable or remittable under Part IX of the Act by any person, to bring it in line with the new interpretation rule for this expression, which is contained in new subsection 123(5) of the Act.

This amendment comes into force on royal assent.

Financial Services and Financial Institutions (GST/HST) Regulations

Clause 189

Prescribed services

Financial Services and Financial Institutions (GST/HST) Regulations

3

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

Existing section 3 of the *Financial Services and Financial Institutions (GST/HST) Regulations* specifies which services are prescribed for the purposes of paragraph (m) of the definition. Section 3 describes a service that is in relation to the clearing and settlement of cheques and other payment items under the national payments system of the Canadian Payments Association (CPA) and that is supplied by the CPA or by any of its members.

Section 3 is amended so that it will not describe a service that is supplied by a person that is a member of the CPA but that is entitled to be a member of the CPA only because of the application of paragraph 4(2)(i) of the *Canadian Payments Act*. Paragraph 4(2)(i) of the *Canadian Payments Act* describes a payment service provider that performs retail payment activities, as those terms are defined in section 2 of the *Retail Payment Activities Act*. The amendment to section 3 does not impact a person that is a member of the CPA because of the application of any of paragraphs 4(1)(a) to (c.1) of the *Canadian Payments Act* or that is entitled to be a member of the CPA because of the application of any of paragraphs 4(2)(a) to (h) of that Act.

The amendment to section 3 is deemed to have come into force on September 25, 2025.

Amalgamations and Windings-Up Continuation (GST/HST) Regulations

Clause 190

Amalgamations and windings-up

Amalgamations and Windings-Up Continuation (GST/HST) Regulations

Schedule

Paragraphs 271(b) and 272(a) of the *Excise Tax Act* (the Act) provide that, for prescribed purposes, a new successor corporation is deemed to be the same corporation as, and a

continuation of, a predecessor merged, amalgamated or wound-up corporation. Section 2 of the *Amalgamations and Windings-Up Continuation (GST/HST) Regulations* (the Regulations) provides that the “prescribed purposes”, referred to in paragraphs 271(b) and 272(a) of the Act, means for the purpose of applying any provision of the Act set out in the Schedule to the Regulations.

The Schedule to the Regulations is amended to add subsections 177(1.1) and (1.11) of the Act to the list of provisions set out in the Schedule to the Regulations. As a result, these subsections, which generally allow an agent or a billing agent to elect with a supplier to account for tax in respect of a supply made by the supplier, are each now a prescribed purpose referred to in paragraphs 271(b) and 272(a) of the Act. This means that, for the purpose of determining if a particular corporation is a party to an election made under subsection 177(1.1)

- if the particular corporation was formed from the merger or amalgamation of two or more predecessor corporations any of which were at the time of the merger or amalgamation a party to a joint election made under subsection 177(1.1) with another person, the particular corporation is deemed to be the same corporation as, and a continuation of, the predecessor corporations and to have made the joint election with the other person; and
- if the particular corporation wound-up a subsidiary corporation that was at the time of the merger or amalgamation a party to a joint election made under subsection 177(1.1), the particular corporation is deemed to be the same corporation as, and a continuation of, the subsidiary corporation and to have made the joint election with the other person.

The amendment to the Schedule to the Regulations is deemed to have come into force on August 4, 2023.

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

Clause 191

Definitions

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

1

Section 1 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* (the Regulations) contains definitions that apply in the Regulations.

Section 1 is amended by amending subsections 1(1) and (2).

The amendments to section 1 apply in respect of any reporting period of a person ending after August 12, 2024.

Subclause 191(1)**Definition “investment plan”***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

1(1)

The definition “investment plan” in subsection 1(1) of the Regulations means a segregated fund of an insurer (as those terms are defined in subsection 123(1) of the *Excise Tax Act* (the Act)) or an investment plan (within the meaning of subsection 149(5) of the Act). However, the definition does not include a person described by paragraph (a) or (b) of the definition. Existing paragraph (a) describes a trust governed by a registered retirement savings plan (as defined in subsection 146(1) of the *Income Tax Act*), a registered retirement income fund (as defined in subsection 146.3(1) of the *Income Tax Act*), a registered disability savings plan (as defined in subsection 146.4(1) of the *Income Tax Act*) or a tax free savings account (within the meaning assigned by subsection 146.2(5) of the *Income Tax Act*).

Paragraph (a) is amended to also include a trust governed by a first home savings account (as defined in subsection 146.6(1) of the *Income Tax Act*).

Subclause 191(2)**Further definitions – *Income Tax Act****Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

1(2)

Subsection 1(2) of the Regulations provides that the terms listed in this subsection have the same meanings for the purposes of the Regulations as in subsection 248(1) of the *Income Tax Act*.

Subsection 1(2) is amended to add “first home savings account” to the list of terms in the subsection so that it has the same meaning for the purposes of the Regulations as it does in subsection 248(1) of the *Income Tax Act* (i.e., the definition of “first home savings account” contained in subsection 146.6(1) of that Act).

Clause 192**Permanent establishment in a province***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

3

Section 3 of the Regulations contains rules governing permanent establishments of financial institutions for the purposes of the Regulations.

Section 3 is amended by modifying paragraphs 3(a), (b), (c) and (e) and adding new paragraph 3(g).

Existing paragraph 3(a) contains rules that deem a bank or credit union (as those terms are

defined in subsection 123(1) of the Act) to have a permanent establishment in a province in certain circumstances. In particular, paragraph 3(a) of the Regulation deems a bank or credit union to have a permanent establishment in a province in a taxation year of the bank or credit union if, at any time in the taxation year, a loan made by the bank or credit union is outstanding and is either secured by land in the province or, if not secured by land, owing by persons resident in the province.

Paragraph 3(a) is amended to replace all references to land with real property (as defined in subsection 123(1) of the Act). As a result, a financial institution that is a bank or credit union will be deemed to have a permanent establishment in a province in a taxation year of the financial institution if, at any time in the taxation year, a loan made by the financial institution is outstanding and is either secured by real property situated in the province or, if not secured by real property, owing by persons resident in the province.

Existing paragraph 3(b) of the Regulations contains rules that deem an insurer (as defined in subsection 123(1) of the Act) to have a permanent establishment in a province in certain circumstances. Paragraph 3(b) of the Regulations is amended to clarify that it does not apply to a financial institution that is a bank, a credit union or an investment plan (as defined in subsection 1(1) of the Regulations), even if that financial institution is also an insurer.

Existing paragraph 3(c) contains rules that deem a trust and loan corporation, a trust corporation or a loan corporation to have a permanent establishment in a province in certain circumstances. In particular, paragraph 3(c) deems a trust and loan corporation, a trust corporation or a loan corporation to have a permanent establishment in a province in a taxation year of the corporation if, at any time in the taxation year, a loan made by the corporation is outstanding and is either secured by land in the province or, if not secured by land, owing by persons resident in the province

Paragraph 3(c) is amended in two ways. Firstly, paragraph 3(c) is amended to replace all references to land with real property. As a result, a financial institution that is a trust and loan corporation, a trust corporation or a loan corporation will be deemed to have a permanent establishment in a province in a taxation year of the financial institution if, at any time in the taxation year, a loan made by the financial institution is outstanding and is either secured by real property situated in the province or, if not secured by real property, owing by persons resident in the province. Secondly, paragraph 3(c) is amended to clarify that it does not apply to a financial institution that is a bank, a credit union, an insurer or an investment plan, even if that financial institution is also a trust and loan corporation, a trust corporation or a loan corporation.

The amendments to paragraphs 3(a), (b) and (c) apply in respect of any reporting period of a person beginning after August 9, 2022.

Existing paragraph 3(e) contains rules governing permanent establishments of distributed

investment plans, other than segregated funds of an insurer.

Paragraph 3(e) is amended to provide that it no longer applies to a distributed investment plan (as defined in subsection 1(1)) that is a master pension entity (as defined in subsection 123(1) of the Act).

New paragraph 3(g) of the Regulations contains rules governing permanent establishments of a master pension entity (as defined in subsection 123(1) of the Act). Paragraph 3(g) of the Regulations deems a master pension entity to have a permanent establishment in a province throughout a taxation year of the master pension entity if, at any time in the taxation year,

- a pension entity (as defined in subsection 123(1) of the Act) or a private investment plan (as defined in subsection 1(1) of the Regulations) holds one or more units of the master pension entity and the pension entity or private investment has a permanent establishment in the province by operation of paragraph 3(e) (i.e., a plan member (as defined in subsection 1(1)) of the pension entity or private investment plan is resident in the province);
- another master pension entity holds one or more units of the master pension entity and the other master pension entity has a permanent establishment in the province by operation of paragraph 3(g); or
- a person, other than a pension entity, a master pension entity or a private investment plan, holds one or more units of the master pension entity and that person is resident in the province.

The amendments to paragraph 3(e) and new paragraph 3(g) apply in respect of any fiscal year of a person ending after August 9, 2022.

Clause 193

Residence of person

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

Section 5 of the Regulations generally provides rules to determine, for the purposes of the Regulations, if a person resident in Canada (within the meaning of subsection 132(1) of the Act) is resident in a province (as defined in subsection 123(1) of the Act). Paragraph 5(c) of the Regulations provides rules to determine if a person that is a trust governed by a registered retirement savings plan (as defined in subsection 146(1) of the *Income Tax Act*), a registered retirement income fund (as defined in subsection 146.3(1) of the *Income Tax Act*), a registered education savings plan (as defined in subsection 146.1(1) of the *Income Tax Act*), a registered disability savings plan (as defined in subsection 146.4(1) of the *Income Tax Act*) or a tax free

savings account (within the meaning assigned by subsection 146.2(5) of the *Income Tax Act*) is resident in a province for the purposes of the Regulations.

Paragraph 5(c) is amended so that it also applies to a person that is a trust governed by a first home savings account (as defined in subsection 146.6(1) of the *Income Tax Act*). Specifically, paragraph 5(c) provides that a trust that is both resident in Canada and governed by a first home savings account is, for the purposes of the Regulations, resident in the province where the principal mailing address in Canada of the holder of the first home savings account is located.

The amendment to paragraph 5(c) applies in respect of any reporting period of a person ending after August 12, 2024.

Clause 194

Qualifying investment plans

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

7

Section 7 of the Regulations contains rules to determine if an investment plan (as defined in subsection 1(1) of the Regulations) is a qualifying small investment plan for a fiscal year of the investment plan. Under section 10 of the Regulations, an investment plan that is a qualifying small investment plan for a particular fiscal year of the investment plan is generally not a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act) for its following fiscal year unless it elects to be one under section 14 of the Regulations.

Section 7 is amended to provide rules to determine if an investment plan is a qualifying private investment plan for a fiscal year of the investment plan. Currently an investment plan that would generally be a qualifying private investment plan for a fiscal year of the investment plan is automatically excluded by section 13 of the Regulations from being a selected listed financial institution for its following fiscal year. Amendments to section 7 and other provisions of the Regulations generally treat qualifying private investment plans similarly to qualifying small investment plans and generally allow for such a plan to elect to be a selected listed financial institution under section 14.

The amendments to section 7 apply in respect of any fiscal year of a person that ends after August 9, 2022.

Subclause 194(1)

Definitions

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

7(1)

Existing subsection 7(1) of the Regulations contains a definition of “unrecoverable tax amount”.

Subsection 7(1) is amended to add a definition of “qualifying master pension entity” for the purposes of section 7 of the Regulations. A qualifying master pension entity is a master pension entity (as defined in subsection 123(1) of the Act), each unit (as defined in subsection 1(1) of the Regulations) of which is held by

- a private investment plan (as defined in subsection 1(1)),
- a pension entity (as defined in subsection 123(1) of the Act), or
- another master pension entity that is itself a qualifying master pension entity as defined by this subsection.

Subclause 194(2)

Qualifying small investment plan

Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations
7(2)

Existing subsection 7(2) of the Regulations contains rules to determine if an investment plan is a qualifying small investment plan for a fiscal year of the investment plan.

Subsection 7(2) is amended to provide that an investment plan is a qualifying small investment plan for a fiscal year of the investment plan if it is not a qualifying private investment plan for the fiscal year (within the meaning of new subsection 7(3) of the Regulations).

Subclause 194(3)

Qualifying private investment plan

Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations
7(3) and (4)

New subsection 7(3) of the Regulations contains rules to determine if an investment plan that is a private investment plan, a pension entity or a master pension entity is a qualifying private investment plan for a fiscal year of the investment plan. These rules are similar to, and replace, rules that determined which pension entities and private investment plans were subject to the rule in now repealed section 13 of the Regulations.

Paragraph 7(3)(a) applies to private investment plans and pension entities. It determines if an investment plan that is a private investment plan or a pension entity is a qualifying private investment plan for a particular fiscal year of the investment plan that ends in a particular taxation year of the investment plan. This determination is based on two tests that are applied for a taxation year (referred to here as a “specified taxation year”) and a fiscal year (referred to here as a “specified fiscal year”) of the investment plan.

- If the particular fiscal year is, in the absence of the deeming rule in section 57 of the

Regulations, the first fiscal year of the investment plan, then the specified taxation year is the particular taxation year and the specified fiscal year is the particular fiscal year.

- In any other case, the specified taxation year is the taxation year of the investment plan that precedes the particular taxation year and the specified fiscal year is the fiscal year of the investment plan that precedes the particular fiscal year.

The two conditions that the investment plan must meet to be a qualifying private investment plan for the particular fiscal year are:

- throughout the specified taxation year, less than ten per cent of the total number of plan members of the investment plan are resident in participating provinces; and
- throughout the specified fiscal year, the following amount is less than \$100 million:
 - In the case of a pension entity of a hybrid pension plan (part of which is a defined contribution pension plan and the other part of which is a defined benefits pension plan, as those terms are defined in subsection 1(1) of the Regulations), the sum of
 - the total value of the assets of the defined contribution pension plan that are reasonably attributable to the plan members of the investment plan resident in the participating provinces, and
 - the total value of the actuarial liabilities of the defined benefits pension plan that are reasonably attributable to the plan members of the investment plan resident in the participating provinces,
 - In the case of a pension entity of a defined benefits pension plan (other than a hybrid pension plan), the total value of the actuarial liabilities of the defined benefits pension plan that are reasonably attributable to the plan members of the investment plan resident in the participating provinces, and
 - In the case of an investment plan that is a private investment plan or a pension entity of a defined contribution pension plan (other than a hybrid pension plan), the total value of the assets of the investment plan that are reasonably attributable to the plan members of the investment plan resident in the participating provinces.

Paragraph 7(3)(b) is similar to paragraph 7(3)(a) but it applies in the case of an investment plan that is a master pension entity. It determines if the master pension entity is a qualifying private investment plan for a particular fiscal year of the investment plan that ends in a particular taxation year of the investment plan. This determination is based on two tests that are applied for a specified taxation year and a specified fiscal year of the investment plan, which have the same description for the purposes of paragraph 7(3)(b) as their description (discussed above) for the

purposes of paragraph 7(3)(a).

A master pension entity will be a qualifying private investment plan for the particular fiscal year if it is a qualifying master pension entity (as defined in subsection 7(1) of the Regulations) throughout the specified fiscal year, if the total participating provinces unit value (within the meaning of subsection 7(4) of the Regulations) of the master pension entity throughout the specified fiscal year is less than \$100 million and if the participating provinces member percentage (within the meaning of subsection 7(4)) of the master pension entity throughout the specified fiscal year is less than ten per cent.

New subsection 7(4) contains interpretation rules that are used in paragraph 7(3)(b) for the purposes of determining if a master pension entity is a qualifying private investment plan for a fiscal year that ends in a taxation year of the master pension entity.

Paragraph 7(4)(a) determines the total participating provinces unit value of a particular qualifying master pension entity. The total participating provinces unit value of a qualifying master pension entity is generally the value of the units of the qualifying master pension entity that can be attributed to those individuals that are resident in participating provinces and that are plan members of a private investment plan or pension entity that directly or indirectly holds units of the master pension entity.

Specifically, the total participating provinces unit value of a particular qualifying master pension entity at any time is the total of all amounts, each of which is a specific amount that is determined for a person that is at that time both a unit holder of the particular qualifying master pension entity and either a pension entity of a pension plan, a private investment plan or another qualifying master pension entity.

- Where the unit holder is a pension entity of a hybrid pension plan (part of which is a defined contribution pension plan and the other part of which is a defined benefits pension plan), the specific amount is determined by multiplying the total value at that time of the units of the particular qualifying master pension entity that are held by the pension entity by the amount that is determined by dividing
 - the sum of the total value at that time of the assets of the defined contribution pension plan that are reasonably attributable to the plan members of the pension entity resident in the participating provinces and the total value at that time of the actuarial liabilities of the defined benefits pension plan that are reasonably attributable to the plan members of the pension entity resident in the participating provinces; by
 - the sum of the total value at that time of the assets of the defined contribution pension plan and the total value at that time of the actuarial liabilities of the

defined benefits pension plan.

- Where the unit holder is a pension entity of a defined benefits pension plan but not a pension entity of a hybrid pension plan, the specific amount is determined by multiplying the total value at that time of the units of the particular qualifying master pension entity that are held by the pension entity by the amount that is determined by dividing
 - the total value at that time of the actuarial liabilities of the pension plan that are reasonably attributable to the plan members of the pension entity resident in the participating provinces; by
 - the total value at that time of the actuarial liabilities of the pension plan.
- Where the unit holder is a private investment plan or is a pension entity of a defined contribution pension plan but not a pension entity of a hybrid pension plan, the specific amount is determined by multiplying the total value at that time of the units of the particular qualifying master pension entity that are held by the unit holder by the amount that is determined by dividing the following:
 - the total value at that time of the assets of the unit holder that are reasonably attributable to the plan members of the unit holder that are resident in the participating provinces; by
 - the total value at that time of the assets of the unit holder.

Paragraph 7(4)(b) determines the participating provinces member percentage of a particular qualifying master pension entity. The participating provinces member percentage of a qualifying master pension entity is generally the percentage of the total value of the units of the qualifying master pension entity that can be attributed to those individuals that are resident in participating provinces and that are plan members of a private investment plan or pension entity that directly or indirectly holds units of the qualifying master pension entity.

Specifically, the participating provinces member percentage of a particular qualifying master pension entity at any time is the amount determined by dividing the following the total value, at that time, of the units of the particular qualifying master pension entity by

- the total of all amounts, each of is a specific amount that is determined for a person that is at that time both a unit holder of the particular qualifying master pension entity and either a pension entity of a pension plan, a private investment plan or another qualifying master pension entity; by
- the total value, at that time, of the units of the particular qualifying master pension entity.

Where the unit holder is a pension entity or a private investment plan, the specific amount is determined by multiplying the following amounts

- the amount determined by dividing
 - the total numbers of plan members of the pension entity or private investment plan that are at that time resident in the participating provinces, by
 - the total numbers of plan members of the pension entity or private investment plan at that time; and
- the total value at that time of the units of the particular qualifying master pension entity that are held by the pension entity or the private investment plan.

Where the unit holder is another qualifying master pension entity, the specific amount is determined by multiplying the participating provinces member percentage of the other qualifying master pension entity at that time by the total value at that time of the units of the particular qualifying master pension entity that are held by the other qualifying master pension entity.

Clause 195

Exception – qualifying investment plans

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

10

Existing section 10 of the Regulations provides that a financial institution that is a qualifying small investment plan (within the meaning of subsection 7(2) of the Regulations) is not a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act, and therefore not a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act), throughout a reporting period in a particular fiscal year of the financial institution if the financial institution is described by any of paragraphs 10(a), (b) or (c) of the Regulation. Paragraph 10(a) requires that the financial institution was a qualifying small investment plan for the fiscal year of the financial institution that precedes the particular fiscal year and that the financial institution not have been a selected listed financial institution throughout that preceding fiscal year.

Section 10 is amended to provide that it also applies to a qualifying private investment plan (within the meaning of new subsection 7(3) of the Regulations). As a result, a financial institution that is a qualifying private investment plan is not a prescribed financial institution throughout a reporting period in a particular fiscal year if the financial institution is described by any of paragraphs 10(a), (b) or (c).

Paragraph 10(a) is also amended. It now requires that the financial institution was either a

qualifying small investment plan or a qualifying private investment plan — and was not a selected listed financial institution — for the fiscal year of the financial institution that precedes the particular fiscal year.

The amendments to section 10 apply in respect of any fiscal year of a person that ends after August 9, 2022.

Clause 196

Exception – pension and private investment plans

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

13

Existing section 13 of the Regulations provides that a financial institution that is a pension entity or a private investment plan is not a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act, and therefore not a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act), throughout a reporting period in a fiscal year that ends in a taxation year of the financial institution if the financial institution meets the conditions described in paragraphs 13(a) and (b) of the Regulations.

Section 13 is repealed as part of a series of amendments to sections 7, 10, 14 and 15 of the Regulations. A private investment plan or pension entity previously subject to the section 13 rule is now described as a qualifying private investment plan under new subsection 7(3) and is now permitted to make an election under amended subsection 14(1) to be a prescribed financial institution.

The repeal of section 13 applies in respect of any fiscal year of a person that ends after August 9, 2022.

Clause 197

Election – prescribed financial institution

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

14

Existing section 14 of the Regulations generally allows an investment plan that is or reasonably expects to be a qualifying small investment plan (within the meaning of subsection 7(2) of the Regulations) for a fiscal year of the investment plan to make an election to potentially be a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act).

Section 14 of the Regulations is amended to also apply to an investment plan that is or reasonably expects to be a qualifying private investment plan (within the meaning of subsection 7(3) of the Regulations) for a fiscal year of the investment plan. The amendments to section 14 modify subsections 14(1) and (6).

The amendments to section 14 apply in respect of any fiscal year of a person that ends after August 9, 2022.

Subclause 197(1)

Election – prescribed financial institution

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

14(1)

Existing subsection 14(1) of the Regulations allows an investment plan that is or reasonably expects to be a qualifying small investment plan for a fiscal year of the investment plan to make an election to be a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act, and therefore potentially a selected listed financial institution. However, to make the election, the following conditions must be met: (1) section 13 of the Regulations must not apply to the investment plan in respect of a reporting period in the fiscal year and (2) no application by the investment plan under subsection 15(1) of the Regulations in respect of the fiscal year has been approved by the Minister of National Revenue.

Subsection 14(1) is amended as part of a series of amendments in respect of private investment plans and pension entities that were previously subject to the rule in now repealed section 13 that disqualified them from being prescribed investment plans. Subsection 14(1) is amended to remove the reference to section 13 and to now provide that such an investment plan (now described as a qualifying private investment plan under new subsection 7(3) of the Regulations) is permitted to make an election under this subsection for a fiscal year of the investment plan to be a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act, provided that no application by the investment plan under subsection 15(1) of the Regulations in respect of the fiscal year has been approved by the Minister.

Subclause 197(2)

Effect of early revocation

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

14(6)

Existing subsection 14(6) of the Regulations applies to an investment plan that is a qualifying small investment plan for a fiscal year of the investment plan. Subsection 14(6) provides that, if the Minister of National Revenue allows the investment plan to revoke an election made under subsection 14(1) of the Regulations on the first day of the fiscal year and if the fiscal year begins less than three years after the election became effective, the investment plan is not a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act, and therefore not a selected listed financial institution, in respect of any reporting period of the investment plan in the fiscal year.

Subsection 14(6) of the Regulations is amended so that it also applies to an investment plan that

is a qualifying private investment plan for a fiscal year of the investment plan.

Clause 198

Small investment plan status

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

15

Existing section 15 of the Regulations generally allows an investment plan that may reasonably be expected to be a qualifying small investment plan (within the meaning of subsection 7(2) of the Regulations) for two successive fiscal years of the investment plan to, upon an application approved by the Minister of National Revenue, not be a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act, and therefore not be a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act), in respect of any reporting period in those two fiscal years.

Section 15 of the Regulations is amended to also apply to an investment plan that is or reasonably expects to be a qualifying private investment plan (within the meaning of new subsection 7(3) of the Regulations). The amendments to section 15 modify subsections 15(2) and (3).

The amendments to section 15 apply in respect of any fiscal year of a person that ends after August 9, 2022.

Subclause 198(1)

Authorization

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

15(2)

Existing subsection 15(2) of the Regulations requires the Minister of National Revenue to, upon receipt of an application made by an investment plan under subsection 15(1) of the Regulations in respect of two successive fiscal years of the investment plan, consider the application and, if it is reasonable to expect that the investment plan will be a qualifying small investment plan for the two fiscal years, either approve the application or else refuse the application and notify the investment plan.

Subsection 15(2) is amended to provide that the Minister may approve or refuse to accept the application of an investment plan if it is reasonable to expect that the investment plan will either be a qualifying private investment plan or a qualifying small investment plan for the two fiscal years that the application is in respect of.

Subclause 198(2)**Effect of authorization**

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

15(3)

Existing subsection 15(3) of the Regulations applies if the Minister of National Revenue has approved an application made by an investment plan under subsection 15(1) of the Regulations in respect of two successive fiscal years of the investment plan. It provides that, for each of the two fiscal years, if the investment plan is a qualifying small investment plan for that fiscal year, then the investment plan is not a prescribed financial institution for the purposes of paragraph 225.2(1)(b) of the Act in respect of any reporting period in that fiscal year.

Subsection 15(3) of the Regulations is amended to provide that, where the Minister has approved an application made by an investment plan under subsection 15(1) in respect of two successive fiscal years of the investment plan, then, for each of the two fiscal years, the investment plan is not a prescribed financial institution in respect of any reporting period in that fiscal year if the investment plan is either a qualifying private investment plan or a qualifying small investment plan for that fiscal year.

Clause 199**Definitions**

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

16

Existing subsection 16(1) of the Regulations contains definitions that apply in Part 2 of the Regulations.

Amendments to subsection 16(1) modify the existing definition “plan merger” and add new definitions “continuing plan” and “predecessor”.

Subclauses 199(1) and (2)**Definition “plan merger”**

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

16(1)

Existing definition “plan merger” in subsection 16(1) of the Regulations means the merger or combination of two or more trusts, corporations or partnerships, each of which was, immediately before the merger or combination, a distributed investment plan and each of which is referred to in this definition as a “predecessor”, to form one trust, corporation or partnership (referred to in this definition as the “continuing plan”), in such a manner that the merger or combination satisfies the conditions in paragraphs (a), (b) and (c) of the definition. Paragraph (a) requires that the continuing plan is a predecessor and is, immediately after the merger or combination, a

distributed investment plan. Paragraph (c) requires that the merger or combination is otherwise than as a result of the acquisition of property of a trust, corporation or partnership by another trust, corporation or partnership, pursuant to the purchase of that property by the other trust, corporation or partnership or as a result of the distribution of that property to the other trust, corporation or partnership on the winding-up of the trust, corporation or partnership.

The definition “plan merger” is amended in two ways.

The first amendment amends the definition so that a plan merger is no longer restricted to the merger or combination of two or more distributed investment plans to form a distributed investment plan. A plan merger is now the merger or combination of two or more “predecessors” — which, as defined in this subsection, may now be either a series of a stratified investment plan or a distributed investment plan — to form a “continuing plan” — which, as defined in this subsection, may now be either a series of a stratified investment plan or a distributed investment plan, and which may or may not be a predecessor — in such a manner that the merger or combination satisfies the conditions in paragraphs (a), (b) and (c) of the definition.

Specifically, this first amendment amends paragraph (a) to provide that the requirement that the continuing plan is a predecessor only applies where the continuing plan and each of the predecessors is a distributed investment plan (i.e., not a series of a distributed investment plan). As a result, for example, the combination of Mutual Fund A and Mutual Fund B would only potentially be a plan merger if the continuing plan were either Mutual Fund A or Mutual Fund B. However, the combination of Series C and Series D would not be disqualified by paragraph (a) from being a plan merger if the continuing plan were new Series E rather than Series C or Series D.

The first amendment to the definition “plan merger” applies in respect of any reporting period of a person that begins after August 9, 2022.

The second amendment amends the definition “plan merger” by repealing paragraph (c). As a result, “plan merger” now means the merger or combination of two or more predecessors to form one continuing plan, in such a manner that the merger or combination satisfies the conditions in paragraphs (a) and (b) of the definition.

The second amendment to the definition “plan merger” applies in respect of any reporting period of a person that ends after August 4, 2023.

Subclause 199(3)**Definitions***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

16(1)

“Continuing plan”

New definition “continuing plan” in subsection 16(1) of the Regulations applies in respect of a plan merger (as defined in this subsection). A continuing plan is generally the investment plan or the series of a stratified investment plan (as those terms are defined in subsection 1(1) of the Regulations) that is the result of the merger or combination of two or more predecessors (as defined in this subsection). More specifically, a continuing plan is either

- a trust, corporation or partnership that results from a merger or combination referred to in the definition “plan merger” and that is, immediately after the merger or combination, a distributed investment plan (as defined in subsection 1(1)); or
- a series of a stratified investment plan if the series results from a merger or combination referred to in the definition “plan merger” and the investment plan does not result from the merger or combination.

New definition “continuing plan” applies in respect of any reporting period of a person that begins after August 9, 2022.

“Predecessor”

New definition “predecessor” in subsection 16(1) of the Regulations applies in respect of a plan merger (as defined in this subsection), as well as in subsections 30(4), 32(4), 33(3) and 34(3) of the Regulations. A predecessor is generally an investment plan or a series of a stratified investment plan that exists immediately before a plan merger and that participates in the plan merger by being merged or combined with one or more other investment plans or series to form a single series or investment plan (i.e., a continuing plan as defined in this subsection). More specifically, a predecessor is either

- a trust, corporation or partnership that participates in a merger or combination referred to in the definition “plan merger” and that is, immediately before the merger or combination, a distributed investment plan; or
- a series of a stratified investment plan that participates in a merger or combination referred to in the definition “plan merger”, but only if the investment plan itself does not participate in the merger or combination.

For example, if a stratified investment plan is composed of two series, Series A and Series B, and

if Series A but not Series B participates in a plan merger with a non-stratified investment plan, then Series A and the non-stratified investment plan will each be predecessors with respect to the plan merger. But if instead the stratified investment plan in its entirety participates in a plan merger with the non-stratified investment plan, then both the stratified investment plan and the non-stratified investment plan will each be predecessors in respect of the plan merger but Series A and Series B of the stratified investment plan will not be predecessors in respect of the plan merger even though they participate in the plan merger.

New definition “predecessor” applies in respect of any reporting period of a person that begins after August 9, 2022.

Clause 200

Insurers

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

24

Section 24 of the Regulations contains rules that apply to selected listed financial institutions (within the meaning of subsection 225.2(1) of the Act) that are insurers (as defined in subsection 123(1) of the Act). These rules govern the determination by such a financial institution of its percentage for a particular period (as defined in subsection 16(1) of the Regulations) and for a particular participating province (as defined in subsection 123(1) of the Act).

Section 24 is amended by amending subsection 24(2) and by adding new subsection 24(4).

Subclauses 200(1) to (3)

Determination of percentage

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

24(2)

Existing subsection 24(2) of the Regulations contains rules applying to an insurer (as defined in subsection 123(1) of the Act) governing the determination of such a financial institution’s percentage for a particular period (as defined in subsection 16(1) of the Regulations) and for a particular participating province (as defined in subsection 123(1) of the Act). This percentage is determined by the formula element A divided by element B. Element A is generally the financial institution’s net premiums for the particular period (within the meaning assigned by subsection 24(1) of Regulations) in respect of the insurance of risk in respect of either property situated in the particular participating province or persons resident in the particular participating province. Element B is currently the total of

- the financial institution’s net premiums for the particular period in respect of the insurance of risk in respect of property situated in Canada; and

- the financial institution's net premiums for the particular period in respect of the insurance of risk in respect of persons resident in Canada;

that are included in computing its income for the purposes of Part I of the *Income Tax Act* (or that would be included if the financial institution were an insurance corporation (as defined in subsection 248(1) of the *Income Tax Act*)).

Subsection 24(2) is amended in three ways.

The first amendment to subsection 24(2) clarifies that it does not apply to an insurer that is a bank, a credit union (as those terms are defined in subsection 123(1) of the Act) or an investment plan (as defined in subsection 1(1) of the Regulations).

The first amendment to subsection 24(2) applies in respect of any reporting period of a person that begins after August 9, 2022.

The second amendment to subsection 24(2) amends element B of the formula to remove the reference to "situated in Canada" and the reference to "resident in Canada". As a result, element B is now the total of

- the financial institution's net premiums for the particular period in respect of the insurance of risk in respect of property; and
- the financial institution's net premiums for the particular period in respect of the insurance of risk in respect of persons;

that are included in computing its income for the purposes of Part I of the *Income Tax Act* (or that would be included if the financial institution were an insurance corporation).

This would mean, for example, that element B would now include the net premiums in respect of a life insurance policy (that is not a group policy) in respect of an individual that was resident in Canada at the time the policy was entered into but is now non-resident.

It should be noted that subsection 24(3) generally provides that elements A and B of the formula in subsection 24(2) do not include net premiums in respect of supplies of insurance that would be zero-rated as a result of section 2 of Part IX of Schedule VI of the Act.

The second amendment to subsection 24(2) applies in respect of any reporting period of a person that ends after August 4, 2023.

The third amendment to subsection 24(2) provides that subsection 24(2) applies subject to new subsection 24(4).

This third amendment applies in respect of any reporting period of a person that ends after August 12, 2024.

Subclause 200(4)**Nil net premiums**

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

24(4)

New subsection 24(4) of the Regulations contains an exception to subsection 24(2) of the Regulations. It applies where two conditions are met. The first condition is that, in the absence of subsection 24(4), subsection 24(2) would apply to determine a financial institution's percentage for a participating province and for the particular period (i.e., the financial institution is an insurer but not a bank, credit union or investment plan). The second condition is that the amount determined for element B in the formula in subsection 24(2) in respect of the financial institution for the particular period is zero. For example, this could be the case if the financial institution's sole source of revenue were to be from selling annuities, which under subsection 24(1) of the Regulations would be excluded from the financial institution's net premiums.

Where subsection 24(4) applies to a selected listed financial institution for a particular period, the financial institution's percentage for the participating province and for the particular period is to be determined by subsection 23(2) of the Regulations rather than by subsection 24(2).

Subsection 24(4) applies in respect of any reporting period of a person that ends after August 12, 2024.

Clause 201**Trust and loan corporations**

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

26

Existing section 26 of the Regulations contains rules applying to trust and loan corporations, trust corporations and loan corporations governing the determination of such a corporation's percentage for a particular period (as defined in subsection 16(1) of the Regulations) and for a particular participating province (as defined in subsection 123(1) of the Act).

The amendments to section 26 modify subsections 26(1) and (2).

The amendments to section 26 apply in respect of any reporting period of a person that begins after August 9, 2022.

Subclause 201(1)**Determination of percentage**

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

26(1)

Existing subsection 26(1) of the Regulations contains rules applying to a corporation that is a trust and loan corporation, a trust corporation or a loan corporation. Subsection 26(1) provides that such a corporation's percentage for a particular period and for a particular participating province is based on its gross revenue for the particular period of its permanent establishments in the particular participating province (as determined by subsection 26(2) of the Regulations).

Subsection 26(1) is amended to clarify that it does not apply to a corporation that is a trust and loan corporation, a trust corporation or a loan corporation if that corporation is also any of a bank, a credit union, an insurer (as those terms are defined in subsection 123(1) of the Act) or an investment plan (as defined in subsection 1(1) of the Regulations).

Subclauses 201(2) and (3)**Determination of gross revenue**

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

26(2)

Existing subsection 26(2) of the Regulations defines the term "gross revenue for the particular period of its permanent establishments in the participating province" for the purpose of subsection 26(1) of the Regulations. Subsection 26(2) provides that a trust and loan corporation, a trust corporation or a loan corporation is to determine this gross revenue amount based in part on

- loans secured by land situated in the particular participating province;
- loans, not secured by land, made to persons resident in the particular participating province; and
- loans, other than certain loans secured by land, made to certain non-resident persons but administered by a permanent establishment of the corporation in the particular participating province.

Subsection 26(2) is amended to replace all references to "secured by land" with "secured by real property". As a result, subsection 26(2) now provides that the determination of the percentage for a particular period and for a particular participating province of a trust and loan corporation, a trust corporation or a loan corporation is now based in part on

- loans secured by real property (as defined in subsection 123(1) of the Act) situated in the

particular participating province;

- loans, not secured by real property, made to persons resident in the particular participating province; and
- loans, other than certain loans secured by real property, made to certain non-resident persons but administered by a permanent establishment of the corporation in the particular participating province.

Clause 202

Determination of percentage

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

27.1

New section 27.1 of the Regulations generally applies where a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act) changes its class of financial institution during a particular period (as defined in subsection 16(1) of the Regulations) of the financial institution. Section 27.1 generally provides that the financial institution's percentage for the particular period and for a participating province would be determined by a weighted average of the financial institution's percentages determined under any of sections 23 to 27 of the Regulations that apply to the financial institution during the particular period.

Specifically, section 27.1 applies if a selected listed financial institution

- is described in any one of subsections 24(2) (generally, an insurer), 25(1) (a bank or a credit union) and 26(1) (generally, a trust and loan corporation, a trust corporation or a loan corporation) during a part of a particular period of the financial institution; and
- is described in another of those subsections, or is not described in any of those subsections, during another part of the particular period.

Where section 27.1 applies to a financial institution, it provides that, despite sections 23 to 27, the financial institution's percentage for the particular period and for a participating province is equal to the total of all amounts, each of which is an amount determined by dividing

- the amount determined for each of sections 23, 24, 25, 26 and 27, equal to the financial institution's percentage for the particular period and for the participating province as determined under section 23, 24, 25, 26 or 27, as the case may be, multiplied by
 - in the case of sections 24, 25 or 26, the number of days, if any, in the particular period that the financial institution was described by respectively subsection 24(2), 25(1) or 26(1), or

- in the case of sections 23 (if a corporation) or 27 (if an individual), the number of days, if any, in the particular period that the financial institution was not described by any of subsections 24(2), 25(1) and 26(1),

by

- the number of days in the particular period.

An example where section 27.1 would be applicable would be where a financial institution that is a corporation ceases to be a bank (as defined in subsection 123(1) of the Act) 100 days into a particular period of the financial institution (i.e., a taxation year of the corporation) but its principal activity remains the lending of money, such that it would be a loan corporation for the remaining 265 days of the particular period. In this situation, the corporation's percentage for the particular period and for a participating province would be the sum of $100/365^{\text{th}}$ of its percentage for the particular period and for the participating province determined under subsection 25(1) and $265/365^{\text{th}}$ of its percentage for the particular period and for the participating province determined under subsection 26(1).

New section 27.1 applies in respect of any reporting period of a person that begins after August 9, 2022.

Clause 203

Investor percentage

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

28(d)

Existing section 28 of the Regulations determines the investor percentage for a participating province of an investor that holds units of an investee (an investment plan or a series of an investment plan). Where subsection 52(3) or (4) of the Regulations applies, the investor would be required to provide this investor percentage to the investee. The investee would then use this investor percentage in determining, in the case of an investee that is an investment plan, its own percentage for the participating province under section 31 or 32 of the Regulations, or, in the case of an investee that is a series of an investment plan, its own percentage for the series for the participating province under section 29 or 30 of the Regulations. An investor percentage for a participating province of an investor is determined by one of paragraphs 28(a), (b), (c), (d) or (e). Paragraph 28(d) currently applies to an investor that is a qualifying small investment plan (as determined by subsection 7(2) of the Regulations) and that is not a selected listed financial institution (as determined by subsection 225.2(1) of the Act).

Paragraph 28(d) is amended so that it would also apply to the following investors:

- an investor that is a qualifying private investment plan (as determined by subsection 7(3))

of the Regulations) and that is not a selected listed financial institution;

- an investor that is not a selected listed financial institution by operation of section 11 of the Regulations (i.e., a provincial investment plan); and
- an investor that is not a selected listed financial institution by operation of section 12 of the Regulations (i.e., a stratified investment plan all the series of which are provincial series (as those terms are defined in subsection 1(1) of the Regulations)).

As a result, these investors will determine their investor percentage for a participating province using paragraph 28(d) rather than, as is currently the case, paragraph 28(e).

The amendments to paragraph 28(d) apply in respect of any reporting period of a person that ends after August 4, 2023.

Clause 204

Plan Mergers

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

30(4)

Existing subsection 30(4) of the Regulations provides special rules that may apply to determine the percentage for a particular period and for a participating province of a particular series of a particular stratified investment plan where, among other conditions, the particular stratified investment plan is a continuing plan formed as a result of a plan merger (as defined in subsection 16(1) of the Regulations) that occurs on a particular day between two or more predecessors, each of which is an investment plan.

Paragraph 30(4)(a) applies where there is no election under section 50 of the Regulations (election for reconciliation) in respect of the particular stratified investment plan that is in effect throughout its transitional fiscal year (i.e., the fiscal year that includes the particular day of the plan merger). The effect of not making an election under section 50 is that the particular stratified investment plan will, for any of its reporting periods in the transitional fiscal year, be applying subsection 225.2(2) of the Act, as adapted by subsection 48(1) of the Regulations, for each participating province using its percentages determined for its preceding period (i.e., its particular period that precedes its particular period in which the transitional fiscal year ends). Paragraph 30(4)(a) provides a rule to determine the percentage for the particular series for a participating province and for the preceding period that includes an amount determined by a formula in respect of each predecessor. Element A of this formula is generally the percentage for the participating province of each predecessor immediately before the plan merger.

Subsection 30(4) is amended to reflect amendments to the definition “plan merger” that provide that a plan merger is no longer restricted to the merger or combination of two or more distributed

investment plans to form a distributed investment plan and is now the merger or combination of two or more predecessors to form a continuing plan. A predecessor as now defined in subsection 16(1) may be either a distributed investment plan or a series of a stratified investment plan. Similarly, the continuing plan as now defined in subsection 16(1) may be either a distributed investment plan or a series of a stratified investment plan. As a result, amended subsection 30(4) now applies where a plan merger results in the formation of a continuing plan that is either

- a stratified investment plan that includes a series that is neither an exchange-traded series nor a provincial series; or
- a series of a stratified investment plan that is neither an exchange-traded series nor a provincial series.

Element A of the formula in paragraph 30(4)(a) is amended to address the situation where a predecessor of a continuing plan may be a series of a stratified investment plan. Amended subparagraph (iii) of element A applies in the case where the predecessor is a series of a stratified investment plan (i.e., the series participates in the plan merger but the stratified investment plan is not itself a predecessor). In this case, element A is

- if an election under section 49 or 64 of the Regulations is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province as of the last day on which that percentage is required to be determined for the purposes of subsection 225.2(2) of the Act, as adapted by subsection 48(2) of the Regulations, before the plan merger; and
- if no election under section 49 or 64 is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province for the last particular period of the stratified investment plan ending before the plan merger.

The amendments to subsection 30(4) apply in respect of any reporting period of a person that begins after August 9, 2022.

Clause 205

Plan Mergers

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

32(4)

Existing subsection 32(4) of the Regulations provides special rules that may apply to determine the percentage for a particular period and for a participating province of a non-stratified investment plan where, among other conditions, the non-stratified investment plan is a continuing plan formed as a result of a plan merger (as defined in subsection 16(1) of the Regulations) that occurs on a particular day between two or more predecessors, each of which is

an investment plan.

Paragraph 32(4)(a) applies where there is no election under section 50 of the Regulations (election for reconciliation) in respect of the non-stratified investment plan that is in effect throughout its transitional fiscal year (i.e., the fiscal year that includes the particular day of the plan merger). The effect of not making an election under section 50 is that the non-stratified investment plan will, for any of its reporting periods in the transitional fiscal year, be applying subsection 225.2(2) of the Act, as adapted by subsection 48(3) of the Regulations, for each participating province using its percentages determined for its preceding period (i.e., its particular period that precedes the particular period in which the transitional fiscal year ends). Paragraph 32(4)(a) provides a rule to determine the percentage for the non-stratified investment plan for a participating province and for the preceding period that includes an amount determined by a formula in respect of each predecessor. Element A of this formula is generally the percentage for the participating province of each predecessor immediately before the plan merger.

Subsection 32(4) is amended to reflect amendments to the definition “plan merger” that provide that a plan merger is no longer restricted to the merger or combination of two or more distributed investment plans to form a distributed investment plan and is now the merger or combination of two or more predecessors to form a continuing plan. A predecessor as now defined in subsection 16(1) may be either a distributed investment plan or a series of a stratified investment plan.

Element A of the formula in paragraph 32(4)(a) is amended to address the situation where a predecessor of a non-stratified investment plan may be a series of a stratified investment plan. Amended subparagraph (iii) of element A applies in the case where the predecessor is a series of a stratified investment plan (i.e., the series participates in the plan merger but the stratified investment plan is not itself a predecessor). In this case, element A is

- if an election under section 49 or 64 of the Regulations is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province as of the last day on which that percentage is required to be determined for the purposes of subsection 225.2(2) of the Act, as adapted by subsection 48(2) of the Regulations, before the plan merger; and
- if no election under section 49 or 64 is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province for the last particular period of the stratified investment plan ending before the plan merger.

The amendments to subsection 32(4) apply in respect of any reporting period of a person that begins after August 9, 2022.

Clause 206**Plan Mergers***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

33(3)

Existing subsection 33(3) of the Regulations provides special rules that may apply to determine the percentage for a particular period and for a participating province of an exchange-traded series of a particular stratified investment plan where, among other conditions, the particular stratified investment plan is a continuing plan formed as a result of a plan merger (as defined in subsection 16(1) of the Regulations) that occurs on a particular day between two or more predecessors, each of which is an investment plan.

Paragraph 33(3)(a) applies where there is no election under section 50 of the Regulations (election for reconciliation) in respect of the particular stratified investment plan that is in effect throughout its transitional fiscal year (i.e., its fiscal year that includes the particular day of the plan merger). The effect of not making an election under section 50 is that the particular stratified investment plan will, for any of its reporting periods in the transitional fiscal year, be applying subsection 225.2(2) of the Act, as adapted by subsection 48(1) of the Regulations, for each participating province using its percentages determined for the preceding period of the particular stratified investment plan (i.e., its particular period that precedes the particular period in which the transitional fiscal year ends). Paragraph 33(3)(a) provides a rule to determine the percentage for the exchange-traded series for a participating province and for the preceding period that includes an amount determined by a formula in respect of each predecessor. Element A of this formula is generally the percentage for the participating province of each predecessor immediately before the plan merger.

Subsection 33(3) is amended to reflect amendments to the definition “plan merger” that provide that a plan merger is no longer restricted to the merger or combination of two or more distributed investment plans to form a distributed investment plan and is now the merger or combination of two or more predecessors to form a continuing plan. A predecessor as now defined in subsection 16(1) may be either a distributed investment plan or a series of a stratified investment plan. Similarly, the continuing plan as now defined in subsection 16(1) may be either a distributed investment plan or a series of a stratified investment plan. As a result, amended subsection 33(3) now applies where a plan merger results in the formation of a continuing plan that is either

- a stratified investment plan that includes a series that is an exchange-traded series but not a provincial series; or
- a series of a stratified investment plan that is an exchange-traded series but not a provincial series.

Element A of the formula in paragraph 33(3)(a) is amended to address the situation where a

predecessor of the continuing plan (the continuing plan being either the exchange-traded series or the stratified investment plan that includes the exchange-traded series) may be a series of a stratified investment plan. Amended subparagraph (iii) of element A applies in the case where the predecessor is a series of a stratified investment plan. In this case, element A is

- if an election under section 49 or 64 of the Regulations is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province as of the last day on which that percentage is required to be determined for the purposes of subsection 225.2(2) of the Act, as adapted by subsection 48(2) of the Regulations, before the plan merger; and
- if no election under section 49 or 64 is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province for the last particular period of the stratified investment plan ending before the plan merger.

The amendments to subsection 33(3) apply in respect of any reporting period of a person that begins after August 9, 2022.

Clause 207

Plan Mergers

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

34(3)

Existing subsection 34(3) of the Regulations provides special rules that may apply to determine the percentage for a particular period and for a participating province of an exchange-traded fund where, among other conditions, the exchange-traded fund is a continuing plan formed as a result of a plan merger (as defined in subsection 16(1) of the Regulations) that occurs on a particular day between two or more predecessors, each of which is an investment plan.

Paragraph 34(3)(a) applies where there is no election under section 50 of the Regulations (election for reconciliation) in respect of the exchange-traded fund that is in effect throughout its transitional fiscal year (i.e., its fiscal year that includes the particular day of the plan merger). The effect of not making an election under section 50 is that the exchange-traded fund will, for any of its reporting periods in the transitional fiscal year, be applying subsection 225.2(2) of the Act, as adapted by subsection 48(3) of the Regulations, for each participating province using its percentages determined for the preceding period of the exchange-traded fund (i.e., the particular period of the exchange-traded fund that precedes the particular period in which the transitional fiscal year ends). Paragraph 34(3)(a) provides a rule to determine the percentage for the exchange-traded fund for a participating province and for the preceding period that includes an amount determined by a formula in respect of each predecessor. Element A of this formula is generally the percentage for the participating province of each predecessor immediately before the plan merger.

Subsection 34(3) is amended to reflect amendments to the definition “plan merger” that provide that a plan merger is no longer restricted to the merger or combination of two or more distributed investment plans to form a distributed investment plan and is now the merger or combination of two or more predecessors to form a continuing plan. A predecessor as now defined in subsection 16(1) may be either a distributed investment plan or a series of a stratified investment plan.

Element A of the formula in paragraph 34(3)(a) is amended to address the situation where a predecessor of an exchange-traded fund may be a series of a stratified investment plan. Amended subparagraph (iii) of element A applies in the case where the predecessor is a series of a stratified investment plan. In this case, element A is

- if an election under section 49 or 64 of the Regulations is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province as of the last day on which that percentage is required to be determined for the purposes of subsection 225.2(2) of the Act, as adapted by subsection 48(2) of the Regulations, before the plan merger; and
- if no election under section 49 or 64 is in effect in respect of the series immediately before the plan merger, the percentage for the series and for the participating province for the last particular period of the stratified investment plan ending before the plan merger.

The amendments to subsection 34(3) apply in respect of any reporting period of a person that begins after August 9, 2022.

Clause 208

Amounts not included in net tax adjustment formula

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

40(a.1)

Section 40 of the Regulations determines which amounts are prescribed amounts of tax for the purposes of both paragraph (a) of the description of element A and paragraph (a) of the description of element F in the formula in subsection 225.2(2) of the Act. This formula is the special attribution method formula that a person uses to determine an adjustment to its net tax in respect of the provincial component of the Harmonized Sales Tax for each reporting period during which it is a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act).

If an amount of tax is described by section 40 of the Regulations, the amount is not included in elements A or F of the formula. Furthermore, where an amount of tax that became payable under either subsection 165(2) or section 212.1 of the Act is described by section 40 of the Regulations and consequentially a prescribed amount for purposes of paragraph (a) of the description of element F, subsection 169(3) of the Act does not prevent the person from including the amount

in determining an input tax credit of the person. (Subsection 169(3) generally does not allow a person to claim an input tax credit in respect of tax payable under either subsection 165(2) or section 212.1 while the person is a selected listed financial institution; however, subparagraph 169(3)(a)(ii) provides that this restriction does not apply in respect of tax that is a prescribed amount for purposes of paragraph (a) of the description of element F.)

Section 40 of the Regulations is amended by adding new paragraph 40(a.1). Paragraph 40(a.1) is tied to section 184.1 of the Act, which relates to “performance bonds”. A “performance bond” is a three-party agreement constituting a type of guarantee given by the issuer of the bond (i.e., the surety) to an obligee who has entered into a contract with a contractor (i.e., the principal). The surety agrees that, if the contractor defaults (i.e., fails to fully perform the contract), the surety will remedy that default. Section 184.1 applies where the surety remedies the default by stepping into the shoes of the defaulting contractor and carrying on the construction. In certain situations, paragraph 184.1(2)(c) will generally permit the surety to claim input tax credits with respect to certain direct inputs when the surety is considered under paragraph 184.1(2)(a) to be making a taxable supply in respect of that construction.

On October 8, 1998, when section 184.1 was released in draft form, it was also announced that where the surety was a selected listed financial institution and where tax payable by the surety on certain inputs related to the carrying on of construction by the surety in satisfaction of its obligations under a construction performance bond to which new section 184.1 applies, this tax payable would be excluded from the special attribution method formula used by the selected listed financial institution’s subsection 225.2(2) net tax adjustment and the selected listed financial institution would not be barred from claiming an input tax credit in respect of the provincial component of this tax payable. Paragraph 40(a.1) of the Regulations, in providing that tax payable on these inputs by a surety is a prescribed amount for purposes of paragraph (a) of the description of element A, and paragraph (a) of the description of element F, in the formula in subsection 225.2(2) of the Act, implements this measure announced on October 8, 1998.

Specifically, paragraph 40(a.1) of the Regulations describes any amount of tax that

- became payable, or that was paid without having become payable, by a surety (described in paragraph 40(a.1), as it is in subsection 184.1(2) of the Act, as a person acting as a surety under a performance bond in respect of a contract for the supply of construction services relating to real property situated in Canada); and
- is in respect of property or a service acquired, imported or brought into a participating province (as those terms are defined in subsection 123(1) of the Act)
 - exclusively and directly for consumption, use or supply in the course of carrying on, or of engaging another person to carry on, construction that is undertaken in full or partial satisfaction of the surety’s obligations under the performance bond,

and

- otherwise than for use as capital property (as defined in subsection 123(1)) of the surety or in improving capital property of the surety.

Paragraph 40(a.1) of the Regulations applies in respect of any amount of tax that becomes payable, or that is paid without having become payable, during a reporting period of a person that

- ends after August 15, 2025; or
- ends after October 8, 1998 and on or before August 15, 2025, unless the amount of tax is included by the person in determining the positive or negative amounts that the person is required to add, or may deduct, under subsection 225.2(2) of the Act in determining the net tax of the person for the reporting period.

Clause 209

Qualifying investor

Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations
52(1)

Existing subsection 52(1) of the Regulations contains definitions that apply for the rules in section 52 of the Regulations governing information sharing respecting persons holding units of distributed investment plans. Existing definition “qualifying investor” in subsection 52(1) is used in subsections 52(7), (9) and (10). A qualifying investor in a particular investment plan for a calendar year is a person that is an investment plan itself, that is a selected investor in the particular investment plan (as defined in this subsection) and that is described by any of paragraphs (a), (b) or (c) of the definition. Paragraph (a) requires that the person is neither a qualified small investment plan (within the meaning of subsection 7(2) of the Regulations) for the fiscal year of the person that includes September 30 of the calendar year in question nor an investment plan in respect of which section 13 of the Regulations applies for that fiscal year.

A consequential amendment is made to paragraph (a) of the definition “qualifying investor” as a result of the repeal of section 13 and the inclusion of certain investment plans previously subject to the rule in that section in the new term “qualifying private investment plan” in new subsection 7(3) of the Regulations. As a result, paragraph (a) now requires that the person is neither a qualified small investment plan nor a qualifying private investment plan for the fiscal year of the person that includes September 30 of the calendar year in question.

The amendment to the definition “qualifying investor” in subsection 52(1) applies in respect of any fiscal year of a person that ends after August 9, 2022.

Clause 210**Attribution point – new series or new non-stratified investment plan***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

58

Existing section 58 of the Regulations provides rules that may apply to determine the “attribution point” in respect of a new series of a stratified investment plan or a new non-stratified investment plan for the purposes of Parts 2 and 5 of the Regulations.

Amendments to section 58 modify subsections 58(1) and (2).

The amendments to section 58 apply in respect of any reporting period a person that begins after August 9, 2022.

Subclause 210(1)**New non-stratified investment plan – attribution point***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

58(1)

Existing subsection 58(1) of the Regulations provides rules that may apply to determine the “attribution point” in respect of a new non-stratified investment plan for the purposes of Parts 2 and 5 of the Regulations. Specifically, subsection 58(1) applies where, in a fiscal year of a non-stratified investment plan that ends in a particular taxation year of the investment plan, new units of the investment plan are issued, distributed or offered for sale and immediately before the issuance, distribution or offering for sale, no units of the investment plan are issued and outstanding. Where subsection 58(1) applies in respect of the investment plan, paragraph 58(1)(a) provides that, despite the meaning of “attribution point” set in subsections 16(1) and 18(3) of the Regulations, the attribution point in respect of the investment plan for the taxation year of the investment plan that precedes the particular taxation year means the earlier of the day described in subparagraph 58(1)(a)(i) and the day described in subparagraph 58(1)(a)(ii). Subparagraph 58(1)(a)(ii) describes the day preceding the day on which a plan merger of the investment plan and one or more investment plans first occurs.

Subparagraph 58(1)(a)(ii) is amended to reflect amendments to the definition “plan merger” that provide that while a plan merger remains the merger or combination of two or more predecessors to form a continuing plan, a predecessor is no longer restricted to being a distributed investment plan and may also be a series of a stratified investment plan where the series, but not the entire stratified investment plan, participates in the plan merger. As a result, subparagraph 58(1)(a)(ii) now describes the day preceding the day on which a plan merger of the investment plan and one or more predecessors (each predecessor is another investment plan or a series of another investment plan) first occurs.

Subclauses 210(2) and (3)**New series – attribution point***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

58(2)

Existing subsection 58(2) of the Regulations provides rules that may apply to determine the “attribution point” in respect of a new series of a stratified investment plan for the purposes of Parts 2 and 5 of the Regulations. Specifically, subsection 58(2) applies where, in a fiscal year of a stratified investment plan that ends in a particular taxation year of the investment plan, new units of a series of the investment plan are issued, distributed or offered for sale and immediately before the issuance, distribution or offering for sale, no units of the series are issued and outstanding. Where subsection 58(2) applies in respect of the series, paragraph 58(2)(a) provides that, despite the meaning of “attribution point” set in subsections 16(1) and 18(3) of the Regulations, the attribution point in respect of the series for the taxation year of the investment plan that precedes the particular taxation year means the earlier of the day described in subparagraph 58(2)(a)(i) and the day described in subparagraph 58(2)(a)(ii). Subparagraph 58(2)(a)(ii) describes the day preceding the day on which a plan merger of the investment plan and one or more investment plans first occurs.

Subparagraph 58(2)(a)(ii) is amended to reflect amendments to the definition “plan merger” that provide that while a plan merger remains the merger or combination of two or more predecessors to form a continuing plan, a predecessor is no longer restricted to being a distributed investment plan and may also be a series of a stratified investment plan where the series, but not the entire stratified investment plan, participates in the plan merger. As a result, subparagraph 58(2)(a)(ii) now describes the day preceding the day on which a plan merger of either the investment plan or the series and one or more predecessors (each predecessor is another investment plan or a series of an investment plan) first occurs.

Subsection 58(2) is also amended to generally update the wording in accordance with current legislative drafting standards.

Clause 211**New non-stratified investment plan – reconciliation method***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

59

Existing section 59 of the Regulations generally provides a rule whereby, if certain conditions are met, a new non-stratified investment plan may first estimate its interim net tax instalments for a transitional period of the investment plan running up until its choice of possible attribution dates, then determine its percentages for each participating province as of that attribution date so as to determine its actual net tax for the transitional period, and then reconcile these actual and interim amounts.

Where the conditions of section 59 are met by a new non-stratified investment plan, the rules in paragraphs 59(a) to (d) then apply to the investment plan. Subparagraph 59(a)(ii) provides a definition of “reconciliation day” that is used in paragraphs 59(b), (c) and (d). The reconciliation day is the earlier of the days set out in clauses 59(a)(ii)(A) and (B). Clause 59(a)(ii)(B) describes the day preceding the day on which a plan merger of the investment plan and one or more investment plans first occurs.

Clause 59(a)(ii)(B) is amended to reflect amendments to the definition “plan merger” that provide that while a plan merger remains the merger or combination of two or more predecessors to form a continuing plan, a predecessor is no longer restricted to being a distributed investment plan and may also be a series of a stratified investment plan where the series, but not the entire stratified investment plan, participates in the plan merger. As a result, clause 59(a)(ii)(B) now describes the day preceding the day on which a plan merger of the investment plan and one or more predecessors (where each predecessor is another investment plan or a series of another investment plan) first occurs.

The amendments to clause 59(a)(ii)(B) apply in respect of any reporting period of a person that begins after August 9, 2022.

Clause 212

New series – reconciliation method

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

62

Existing section 62 of the Regulations generally provides a rule whereby, if certain conditions are met, a new series of a stratified investment plan may first estimate its interim net tax instalments for a transitional period of the investment plan running up until its choice of possible attribution dates, then determine its percentages for each participating province as of that attribution date so as to determine its actual net tax for the transitional period, and then reconcile these actual and interim amounts.

Where the conditions of section 62 are met in respect of a new series of a stratified investment plan, the rules in paragraphs 62(a) to (d) then apply to the series. Subparagraph 62(a)(ii) provides a definition of “reconciliation day” that is used in paragraphs 62(b), (c) and (d). The reconciliation day is the earlier of the days set out in clauses 62(a)(ii)(A) and (B). Clause 62(a)(ii)(B) describes the day preceding the day on which a plan merger of the investment plan and one or more investment plans first occurs.

Clause 62(a)(ii)(B) is amended to reflect amendments to the definition “plan merger”. While a plan merger continues to be the merger or combination of two or more predecessors to form a continuing plan, the term “predecessor” is no longer restricted to being a distributed investment plan and may also be a series of a stratified investment plan where the series, but not the entire

stratified investment plan, participates in the plan merger. Similarly, the term “continuing plan” is no longer restricted to being a distributed investment plan and may also be a series of a stratified investment plan. As a result, clause 62(a)(ii)(B) now describes the day preceding the day on which a plan merger of either the investment plan or the series and one or more predecessors (each of which is another investment plan or a series of an investment plan) first occurs.

The amendments to clause 62(a)(ii)(B) apply in respect of any reporting period of a person that begins after August 9, 2022.

Clause 213

Prescribed circumstance and day

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

65

Subsection 244.1(2) of the Act provides that if a person is, throughout a particular reporting period in a particular fiscal year of the person, both a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act) and either an investment plan (within the meaning of subsection 149(5) of the Act) or a segregated fund of an insurer (as those terms are defined in subsection 123(1) of the Act) and if prescribed circumstances exist, then the particular fiscal year ends on the day immediately before a prescribed day and the immediately following fiscal year of the person begins on the prescribed day.

Existing section 65 of the Regulations determines for the purposes of subsection 244.1(2) of the Act what is a prescribed circumstance and what day is a prescribed day in relation to an investment plan (as defined in subsection 1(1) of the Regulations). Paragraph 65(a) provides that the occurrence of a plan merger (as defined in subsection 16(1) of the Regulations) to form an investment plan is a prescribed circumstance. Paragraph 65(b) provides that the day on which the plan merger referred to in paragraph 65(a) occurs is the prescribed day in relation to the investment plan.

Paragraph 65(a) is amended to provide that the occurrence of a plan merger to form a series (as defined in subsection 1(1)) of an investment plan is also a prescribed circumstance. As a result, where an investment plan is a selected listed financial institution throughout a reporting period in a particular fiscal year of the investment plan and a plan merger occurs on a particular day to form a series of the investment plan, subsection 244.1(2) of the Act will now provide that the investment plan’s fiscal year will end on the day immediately before the particular day and the immediately following fiscal year of the investment plan will begin on the particular day.

This amendment applies in respect of any reporting period of a person that begins after August 9, 2022.

Clause 214**Investment plan merger***Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*

66

Existing section 66 of the Regulations provides that, if a plan merger (as defined in subsection 16(1) of the Regulations) occurs to form an investment plan (as defined in subsection 1(1) of the Regulations) that is, immediately after the plan merger, a selected listed financial institution (within the meaning of subsection 225.2(1) of the Act), the rules set out in paragraphs 66(a) and (b) apply.

Section 66 of the Regulations is amended to provide that rules set out in paragraphs 66(a) and (b) will also apply if a plan merger occurs to form a series (as defined in subsection 1(1)) of an investment plan and the investment plan is, immediately after the plan merger, a selected listed financial institution.

This amendment applies in respect of any reporting period of a person that begins after August 9, 2022.

Division 2 – Excise Act, Excise Act, 2001 and Other Related Texts

Excise Act

Clause 215

Waiving or reducing penalty

EA

99

Existing section 99 of the *Excise Act* (the Act) sets out various forfeiture and penalty rules related to returns under the Act, including a penalty under subsection 99(4) for failing to make a return within the required time.

Section 99 of the Act is amended to add a new subsection 99(5) that allows the Minister of National Revenue to waive or reduce a penalty payable by a person under subsection 99(4). This authority may be exercised on the Minister's own initiative on or before the day that is 10 calendar years after the end of a period for which a return is required to be made by the person or upon application by the person on or before that day.

This amendment comes into force on royal assent.

Clause 216

Waiving or reducing penalty or interest

EA

110.1

Existing subsection 110.1(1) of the Act provides for penalties and interest for the late payment of amounts of duties and penalties payable under the Act.

Section 110.1 of the Act is amended to add a new subsection 110.1(3) that allows the Minister of National Revenue to waive or reduce any penalty or interest that is payable under subsection 110.1(1) on an amount that is not paid by a person when required. This authority may be exercised on the Minister's own initiative on or before the day that is 10 calendar years after the amount is required to be paid by the person or upon application by the person on or before that day.

This amendment comes into force on royal assent.

Excise Act, 2001

Clause 217

Definition “sale price”

EA, 2001

2

The existing definition “sale price” in section 2 of the *Excise Act, 2001* (the Act) is used to calculate an additional duty on cigars imposed under section 43 of the Act. Paragraph (a) of the definition does not explicitly exclude the portion of the price attributable to the additional duty on cigars from the determination of the “sale price”.

Paragraph (a) is amended to clarify that the portion of the price attributable to the additional duty is not included in the determination of the sale price.

This amendment comes into force on royal assent.

Clause 218

Meaning of “administration or enforcement of this Act”

EA, 2001

4

Existing section 4 of the Act provides an interpretation rule for the expression “administration or enforcement of this Act”.

Section 4 is amended to provide that, for greater certainty, the administration or enforcement of the Act includes the collection of any amount payable or remittable under the Act but also the administration of a listed international agreement or of a tax treaty (as defined in subsection 248(1) of the *Income Tax Act*).

This amendment comes into force on royal assent.

Clause 219

Negative amounts

EA, 2001

6.1

New section 6.1 of the Act provides that negative amounts determined by algebraic formulae under the Act are deemed to be zero except as specifically otherwise provided.

This amendment comes into force on royal assent.

Clause 220**Specified province – duty on cannabis taken for use**

EA, 2001

158.25(2)

Existing subsection 158.25(2) of the Act provides that if cannabis products are taken for use, then a duty in respect of a specified cannabis province is imposed on the cannabis products in circumstances prescribed by regulations in the amount determined in a manner prescribed by regulations. This duty applies in respect of provinces that have entered into an agreement with Canada in respect of the coordination of cannabis product taxation.

Subsection 158.25(2) is amended to clarify that cannabis products that are taken for use are relieved of the duty imposed under subsection 158.2(1) of the Act (i.e., the additional cannabis duty in respect of specified provinces that ordinarily applies to cannabis products produced in Canada). In other words, such cannabis products are subject to the duty imposed under subsection 158.25(2) but are relieved of the duty imposed under subsection 158.2(1).

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

Clause 221**Specified province – duty on unaccounted cannabis**

EA, 2001

158.26(2)

Existing subsection 158.26(2) of the Act provides that if a cannabis product cannot be accounted for as being in the possession of a cannabis product licensee or in the possession of another person in accordance with subsection 158.11(3) or paragraph 158.11(5)(a) of the Act, then a duty in respect of a specified cannabis province is imposed on the cannabis product in circumstances prescribed by regulations in the amount determined in a manner prescribed by regulations. This duty applies in respect of provinces that have entered into an agreement with Canada in respect of the coordination of cannabis product taxation.

Subsection 158.26(2) is amended to clarify that cannabis products that cannot be accounted for are relieved of the duty imposed under subsection 158.2(1) of the Act (i.e., the additional cannabis duty in respect of specified provinces that ordinarily applies to cannabis products produced in Canada). In other words, such cannabis products are subject to the duty imposed under subsection 158.26(2) but are relieved of the duty imposed under subsection 158.2(1).

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

Clause 222**Duty on vaping products taken for use**

EA, 2001

158.6

Existing section 158.6 of the Act provides that duty is payable on vaping products that are taken for use.

Section 158.6 is amended by amending paragraph 158.6(1)(a) and subsection 158.6(2).

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

Subclause 222(1)**Duty on vaping products taken for use**

EA, 2001

158.6(1)

Existing subsection 158.6(1) of the Act provides that if vaping products are taken for use, then a duty is imposed in the amount determined in respect of the vaping products under Schedule 8 to the Act. Paragraph 158.6(1)(a) provides that, if the vaping products that are taken for use are packaged, they are also relieved of the duty imposed under section 158.57 of the Act (i.e., the duty that ordinarily applies to vaping products manufactured in Canada and imported vaping products).

Paragraph 158.6(1)(a) is amended to clarify that vaping products that are taken for use are relieved of the duty imposed under section 158.57 whether or not the vaping products are packaged. In other words, such vaping products are subject to the duty imposed under subsection 158.6(1) but are relieved of the duty imposed under section 158.57.

Subclause 222(2)**Specified vaping province – taken for use**

EA, 2001

158.6(2)

Existing subsection 158.6(2) of the Act provides that if vaping products are taken for use, then a duty in respect of a specified vaping province is imposed on the vaping products in circumstances prescribed by regulations in the amount determined in a manner prescribed by regulations. This duty applies in respect of provinces that have entered into an agreement with Canada in respect of the coordination of vaping product taxation.

Subsection 158.6(2) is amended to clarify that vaping products that are taken for use are relieved of the duty imposed under section 158.58 of the Act (i.e., the additional vaping duty in respect of specified provinces that ordinarily applies to vaping products manufactured in Canada and

imported vaping products). In other words, such vaping products are subject to the duty imposed under subsection 158.6(2) but are relieved of the duty imposed under section 158.58.

Clause 223

Duty on unaccounted vaping products

EA, 2001

158.61

Existing section 158.61 of the Act provides that duty is payable on vaping products that are not accounted for.

Section 158.61 is amended by amending paragraph 158.61(a) and subsection 158.61(2).

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

Subclause 223(1)

Duty on unaccounted vaping products

EA, 2001

158.61(1)

Existing subsection 158.61(1) of the Act provides that a duty is imposed on a vaping product if a person responsible for the vaping product cannot account for the vaping product as being in the possession of a vaping product licensee or in the possession of another person in accordance with subsection 158.44(3) of the Act. The duty is imposed in the amount determined in respect of the vaping product under Schedule 8 to the Act. Paragraph 158.61(1)(a) provides that, if the vaping products that are unaccounted for are packaged, they are also relieved of the duty imposed under section 158.57 of the Act (i.e., the duty that ordinarily applies on vaping products manufactured in Canada and imported vaping products).

Paragraph 158.61(1)(a) is amended to clarify that vaping products that are unaccounted for are relieved of the duty imposed under section 158.57 whether or not the vaping products are packaged. In other words, such vaping products are subject to the duty imposed under subsection 158.61(1) but are relieved of the duty imposed under section 158.57.

Clause 223(2)

Specified vaping province – unaccounted vaping products

EA, 2001

158.61(2)

Existing subsection 158.61(2) of the Act provides that if vaping products cannot be accounted for, then a duty in respect of a specified vaping province is imposed on the vaping products in circumstances prescribed by regulations in the amount determined in a manner prescribed by regulations. This duty applies in respect of provinces that have entered into an agreement with

Canada in respect of the coordination of vaping product taxation.

Paragraph 158.61(2) is amended to clarify that vaping products that cannot be accounted for are relieved of the duty imposed under section 158.58 of the Act (i.e., the additional vaping duty in respect of specified provinces that ordinarily applies to vaping products manufactured in Canada and imported vaping products). In other words, such vaping products are subject to the duty imposed under subsection 158.61(2) but are relieved of the duty imposed under section 158.58.

Clause 224

Requirement to provide records or information

EA, 2001

208

Existing subsection 208(1) of the Act states that the Minister of National Revenue may, subject to subsection 208(2) of the Act, for any purpose related to the administration or enforcement of a listed international agreement or of the Act, require that any person provide the Minister with information or records related to that purpose.

Existing paragraph 208(3)(b) provides that a judge of the Federal Court may, on application by the Minister, authorize the Minister to impose on a third party a requirement to provide information or records requested by the Minister under subsection 208(1) relating to one or more unnamed persons. This requirement must be made to verify compliance by the person or persons in the group with any duty or obligation under the Act.

Paragraph 208(3)(b) is amended to clarify that the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under the Act or for a purpose related to the administration of a listed international agreement or of a tax treaty. Technical drafting amendments are also made to subsection 208(1) as a consequence of the amendments to 208(3).

These amendments come into force on royal assent.

Regulations Respecting Excise Licences and Registrations

Clause 225

Extension of licence period

Regulations Respecting Excise Licences and Registrations

4(b)

Existing section 4 of the *Regulations Respecting Excise Licences and Registrations* stipulates that an excise licence is valid for the period specified in the licence and sets out the maximum duration for various types of excise licences.

Paragraph 4(b) is amended to add excise warehouse licenses (other than an excise warehouse licence authorizing a person to possess in their excise warehouse manufactured tobacco or cigars that are not stamped), spirits licences, wine licences and user's licences to the list of excise licences for which the duration must not exceed three years (previously, the maximum duration for these licence types was two years).

This amendment comes into force on royal assent.

Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations

Clauses 226 and 227

Prescribed package and prescribed limit

Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations

2, 5(2)

The *Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations* (the Regulations) provide rules relating to the stamping, marking and labelling of tobacco, cannabis and vaping products.

Existing paragraph 2(a) of the Regulations provides rules relating to when raw leaf tobacco is packaged for the purpose of paragraph (a) of the definition “packaged” in section 2 of the *Excise Act, 2001* (the Act).

Paragraph 2(a) of the Regulations is amended to specify that raw leaf tobacco is packaged in a prescribed package when it is packaged in a package that contains no more than 500 grams of raw leaf tobacco, and in the smallest package — including any outer wrapper, package, box or other container — in which it is sold to the consumer.

The French version of paragraph 2(c) of the Regulations is also amended to correct an inconsistency with the English version.

Existing section 5 of the Regulations sets out the prescribed limit on the amount of tobacco products that a person may import into Canada for their personal use.

Subsection 5(1) provides that the limit is five units of tobacco products for the purposes of paragraph 32(2)(j) of the Act (possession of unstamped tobacco products for personal importation) and paragraph 35(2)(c) of the Act (exception to packaging and stamping of imported tobacco products for personal use).

Subsection 5(2) of the Regulations provides that one unit of tobacco products consists of 200 cigarettes, 50 cigars, 200 tobacco sticks or 200 grams of manufactured tobacco.

Subsection 5(2) is amended to provide that one unit of tobacco products can also consist of 500 grams of packaged raw leaf tobacco.

These amendments come into force on the first day of the month after the month in which this Act receives royal assent.