

LEGISLATIVE PROPOSALS RELATING TO THE INCOME TAX ACT AND REGULATIONS

REPEATED FAILURE TO REPORT INCOME PENALTY

1. (1) Subsection 163(1) of the Act is replaced by the following:

Repeated failure to report income

163. (1) Every person is liable to a penalty who

(a) fails to report an amount, equal to or greater than \$500, required to be included in computing the person’s income in a return filed under section 150 for a taxation year (in this subsection and subsection (1.1) referred to as the “unreported amount”);

(b) had failed to report an amount, equal to or greater than \$500, required to be included in computing the person’s income in any return filed under section 150 for any of the three preceding taxation years; and

(c) is not liable to a penalty under subsection (2) in respect of the unreported amount.

Amount of penalty

(1.1) The amount of the penalty to which the person is liable under subsection (1) is equal to the lesser of

(a) 10% of the unreported amount, and

(b) the amount determined by the formula

0.5 × (A – B)

where

A is the total of the amounts that would be determined under paragraphs (2)(a) to (g) if subsection (2) applied in respect of the unreported amount, and

B is any amount deducted or withheld under subsection 153(1) that may reasonably be considered to be in respect of the unreported amount.

(2) Subsection (1) applies to taxation years that begin after 2014.

DONATIONS INVOLVING PRIVATE CORPORATION SHARES OR REAL ESTATE

2. (1) Paragraph 38(a) of the Act is replaced by the following:

(a) subject to paragraphs (a.1) to (a.4), a taxpayer’s taxable capital gain for a taxation year from the disposition of any property is 1/2 of the taxpayer’s capital gain for the year from the disposition of the property;

(2) The Act is amended by adding the following after paragraph 38(a.3):

(a.4) a taxpayer’s taxable capital gain for a taxation year from the disposition of property is equal to zero if

(i) the following conditions are met

(A) subsection 38.4(1) applies to the disposition,

(B) an amount of money is the subject of a gift that is made by the taxpayer to a qualified donee not more than 30 days after the disposition, and

- (C) the taxpayer is resident in Canada at the end of the taxation year, or
- (ii) the following conditions are met
 - (A) the taxpayer was resident in Canada immediately before the taxpayer's death,
 - (B) the disposition is deemed by section 70 to have occurred,
 - (C) subsection 38.4(1) applies to the subsequent disposition of the property by the taxpayer's graduated rate estate, and
 - (D) an amount of money is the subject of a gift to which subsection 118.1(5.1) applies and that is made by the estate to a qualified donee not more than 30 days after the subsequent disposition;

(3) Subsections (1) and (2) apply to the 2017 and subsequent taxation years.

3. (1) The Act is amended by adding the following after section 38.2:

38.3 If subsection 38.4(1) applies to a taxpayer's disposition of property in a taxation year,

(a) where the conditions in subparagraph 38(a.4)(i) are met in respect of the taxpayer's disposition,

- (i) paragraph 38(a.4) applies only to the portion of the taxpayer's capital gain on the disposition that is determined by the formula

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

where

A is the taxpayer's capital gain from the disposition,

B is the lesser of

(A) the total amount of money that is the subject of a gift to a qualified donee that is

(I) made by the taxpayer within 30 days after the disposition, and

(II) designated as a gift in respect of which paragraph 38(a.4) applies by the taxpayer in the taxpayer's return of income for the taxation year, and

(B) the amount of money received by the taxpayer, as proceeds from the disposition, prior to the making of the gift,

C is the amount of the advantage, if any, in respect of the gift, and

D is the taxpayer's proceeds of disposition of the property; and

- (ii) paragraph 38(a) applies to the extent that the taxpayer's capital gain from the disposition exceeds the amount determined by the formula in subparagraph (i); and

(b) where the taxpayer is the estate of an individual and the conditions in clauses 38(a.4)(ii)(C) and (D) are met in respect of the disposition (in this paragraph referred to as the "subsequent disposition"),

- (i) paragraph 38(a.4) applies only to the portion of the individual's capital gain from the individual's disposition, under section 70, of the property that is determined by the formula

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

where

- A is the individual's capital gain from the disposition, under section 70, of the property,
 - B is the lesser of
 - (A) the total amount of money that is the subject of a gift to a qualified donee that is
 - (I) made by the estate within 30 days after the subsequent disposition, and
 - (II) designated as a gift in respect of which paragraph 38(a.4) applies by the individual's legal representative in the individual's return of income for the individual's taxation year in which the death occurred, and
 - (B) the amount of money received by the individual's estate, as proceeds from the subsequent disposition, prior to the making of the gift,
 - C is the amount of the advantage, if any, in respect of the gift, and
 - D is the estate's proceeds of the subsequent disposition, and
- (ii) paragraph 38(a) applies to the extent that the individual's capital gain from the disposition, under section 70, of the property, exceeds the amount determined by the formula in subparagraph (i).

Application of
paragraph
38(a.4)

38.4 (1) This subsection applies to a taxpayer's disposition of property in a taxation year if

- (a) the property is
 - (i) a share of the capital stock of a private corporation, or
 - (ii) real or immovable property situated in Canada;
- (b) the disposition
 - (i) occurs after 2016,
 - (ii) is a sale to a person or partnership, and
 - (iii) is not a transaction, and is not part of a series of transactions or events,
 - (A) under which the purchaser is not dealing at arm's length or is affiliated with,
 - (I) the taxpayer, or
 - (II) the qualified donee to which a gift, described in subparagraph 38(a.4)(i) or (ii), is made in connection with the disposition, or
 - (B) that includes one or more agreements or other arrangements that
 - (I) are entered into by the taxpayer or by a person or partnership that does not deal at arm's length with, or that is affiliated with, the taxpayer,
 - (II) have the effect, or would have the effect if entered into by the taxpayer instead of the person or partnership, of providing to the taxpayer all or any portion of the risk of loss or opportunity for gain or profit in respect of the property for a definite or indefinite period of time, and
 - (III) can reasonably be considered to have been entered into, in whole or in part, with the purpose of avoiding the application of clause (A); and
- (c) it is not the case that, in the taxation year,

	<p>(i) the taxpayer (or a person or partnership with which the taxpayer is not dealing at arm's length or is affiliated) or the qualified donee (or a person or partnership with which the qualified donee is not dealing at arm's length or is affiliated) acquires in the taxation year, directly or indirectly, all or any portion of</p> <ul style="list-style-type: none"> (A) the property, (B) property substituted for the property, or (C) property that derives its value from the property; <p>(ii) if the property is a share of the capital stock of a corporation, that share, or a share substituted for it, is redeemed, acquired or cancelled in the taxation year at a time when the taxpayer, a person or partnership not dealing at arm's length with the taxpayer or the taxpayer's estate (if applicable) does not deal at arm's length or is affiliated with the corporation; or</p> <p>(iii) subsection 118.1(16) applies in the taxation year to determine the fair market value of a gift made in the taxation year described in clause (A) of the description of B in subparagraph 38.3(a)(i).</p>
Reversal of capital gain exemption	<p>(2) If this subsection applies to a particular taxpayer for a particular taxation year in respect of a particular disposition of the property to which subsection (1) applied in any preceding taxation year, then the particular taxpayer is deemed to have a capital gain from a disposition in the particular taxation year of the property equal to the portion of the capital gain on the disposition to which paragraph 38(a.4) applied.</p>
Application of subsection (2)	<p>(3) Subsection (2) applies to a particular taxpayer for a particular taxation year in respect of a particular disposition of property by the particular taxpayer to which subsection (1) applied in any preceding taxation year if, after the end of the preceding taxation year and on or before the date that is 60 months after the time of the particular disposition,</p> <ul style="list-style-type: none"> (a) the particular taxpayer (or a person or partnership with which the particular taxpayer is not dealing at arm's length or is affiliated) or the qualified donee (or a person or partnership with which the qualified donee is not dealing at arm's length or is affiliated) acquires in the particular taxation year, directly or indirectly, all or any portion of <ul style="list-style-type: none"> (i) the property, (ii) property substituted for the property, or (iii) property that derives its value from the property; (b) if the property is a share of the capital stock of a corporation, that share, or a share substituted for it, is redeemed, acquired or cancelled in the particular taxation year at a time when the taxpayer, a person or partnership not dealing at arm's length with the taxpayer or the taxpayer's estate (if applicable) does not deal at arm's length or is affiliated with the corporation; or (c) subsection 118.1(16) applies in the particular taxation year to determine the fair market value of a gift — made in the particular taxation year or a previous taxation year — described in clause (A) of the description of B in subparagraph 38.3(a)(i).
Taxpayer ceasing to exist	<p>(4) Subsection (2) applies at a particular time in a particular taxation year to a particular taxpayer in respect of a particular disposition of property by another taxpayer to which subsection (1) applied in any preceding taxation year if</p> <ul style="list-style-type: none"> (a) the other taxpayer ceased to exist before the particular time;

(b) the particular taxpayer

(i) was not dealing at arm's length or was affiliated with the other taxpayer immediately before the other taxpayer ceased to exist, or

(ii) is not dealing at arm's length with or is affiliated with a person or partnership at the particular time that was not dealing at arm's length or was affiliated with the other taxpayer immediately before the other taxpayer ceased to exist; and

(c) after the end of the preceding taxation year and on or before the date that is 60 months after the time of the particular disposition,

(i) the particular taxpayer acquires in the particular taxation year, directly or indirectly, all or any portion of

(A) the property,

(B) property substituted for the property, or

(C) property that derives its value from the property,

(ii) if the property is a share of the capital stock of a corporation, that share, or a share substituted for it, is redeemed, acquired or cancelled in the particular taxation year at a time when the particular taxpayer or the particular taxpayer's estate (if applicable)

(A) does not deal at arm's length or is affiliated with the corporation, and

(B) holds, directly or indirectly, an interest in the corporation, or

(iii) if subsection 118.1(16) applies in the particular taxation year to determine the fair market value of a gift — made in the particular taxation year or a previous taxation year — described in clause (A) of the description of B in subparagraph 38.3(a)(i) and the particular taxpayer uses property in circumstances described in subparagraph 118.1(16)(c)(ii).

Deemed excess

(5) For the purposes of subsection 161(1), if an amount is deemed to be a capital gain of a taxpayer for a particular taxation year under subsection (2), the taxpayer is deemed to have an excess immediately after the taxpayer's balance-due day for the year computed as if

(a) the taxpayer were resident in Canada throughout the year;

(b) the taxpayer's tax payable for the year were equal to the tax payable by the taxpayer on its taxable income for the year;

(c) the amount were the taxpayer's only taxable income for the year;

(d) the taxpayer claimed no deductions under Division E for the year;

(e) the taxpayer had not paid any amounts on account of its tax payable for the year; and

(f) the tax payable determined under paragraph (b) had been outstanding throughout the period that begins immediately after the end of the preceding taxation year referred to in subsection (2) and that ends on the taxpayer's balance-due day for the particular year.

(2) Subsection (1) applies to the 2017 and subsequent taxation years.

4. (1) The portion of subsection 40(12) of the Act before paragraph (a) is replaced by the following:

Donated flow-through shares

(12) If at any time a taxpayer disposes of one or more capital properties that are included in a flow-through share class of property and paragraph 38(a.1) or (a.4) applies to the disposition (in this

subsection referred to as the “actual disposition”), then the taxpayer is deemed to have a capital gain from a disposition at that time of another capital property equal to the lesser of

(2) Subsection (1) applies to the 2017 and subsequent taxation years.

INVESTMENTS BY REGISTERED CHARITIES IN LIMITED PARTNERSHIPS

5. (1) Section 149.1 of the Act is amended by adding the following after subsection (10):

Partnership
look-through
rule

(11) For the purposes of this section and sections 149.2 and 188.1, each member of a partnership at any time is deemed at that time to own the portion of each property of the partnership equal to the proportion that the fair market value of the member’s interest in the partnership at that time is of the fair market value of all interests in the partnership at that time.

(2) Subsection (1) is deemed to have come into force on April 21, 2015.

6. (1) Section 253.1 of the Act is renumbered as subsection 253.1(1) and is amended by adding the following:

Investments in
limited
partnerships

(2) For the purposes of section 149.1 and subsections 188.1(1) and (2), if a registered charity or a registered Canadian amateur athletic association holds an interest as a member of a partnership, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business of the partnership if

(a) by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited;

(b) the member deals at arm’s length with each general partner of the partnership; and

(c) the member, or the member together with persons and partnerships with which it does not deal at arm’s length, holds interests in the partnership that have a fair market value of not more than 20% of the fair market value of the interests of all members in the partnership.

(2) Subsection (1) applies in respect of investments in limited partnerships that are made or acquired after April 20, 2015.

SYNTHETIC EQUITY ARRANGEMENTS

7. (1) Subsection 112(2.3) of the Act is replaced by the following:

Where no
deduction
permitted

(2.3) No deduction may be made under subsection (1) or (2) or 138(6) in computing the taxable income of a particular corporation in respect of a dividend received on a share of the capital stock of a corporation as part of a dividend rental arrangement of the particular corporation, a partnership of which the particular corporation is directly or indirectly a member or a trust under which the particular corporation is a beneficiary.

Dividend rental
arrangements –
exception

(2.31) Subsection (2.3) does not apply to a dividend received on a share as part of a dividend rental arrangement of a person or partnership (referred to in this subsection and subsection (2.32) as the “taxpayer”) throughout a particular period during which the synthetic equity arrangement referred to in paragraph (c) of the definition “dividend rental arrangement” is in effect if

(a) the dividend rental arrangement is a dividend rental arrangement because of paragraph (c) of the definition “dividend rental arrangement” in subsection 248(1); and

Representations

(b) the taxpayer establishes that, throughout the particular period, no tax-indifferent investor or group of tax-indifferent investors, each member of which is affiliated with every other member, has all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share because of the synthetic equity arrangement or a specified synthetic equity arrangement.

(2.32) A taxpayer is considered to have satisfied the condition described in paragraph (2.31)(b) in respect of a share if

(a) the taxpayer or the connected person referred to in paragraph (a) of the definition “synthetic equity arrangement” in subsection 248(1) (either of which is referred to in this subsection as the “synthetic equity arrangement party”) obtains accurate representations in writing from its counterparty, or from each member of a group comprised of all its counterparties each of which is affiliated with each other (each member of this group of counterparties is referred to in this subsection as an “affiliated counterparty”), with respect to the synthetic equity arrangement, as appropriate, that

- (i) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31), and
- (ii) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31);

(b) the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, with respect to the synthetic equity arrangement that the counterparty, or each affiliated counterparty, as appropriate

- (i) is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31),
- (ii) has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit, in respect of the share, in one of the following circumstances:

(A) in the case of a counterparty, that counterparty

- (I) has entered into a specified synthetic equity arrangement with its own counterparty (a counterparty of a counterparty or of an affiliated counterparty is referred to in this subsection as a “specified counterparty”), or
- (II) has entered into a specified synthetic equity arrangement with each member of a group of its own counterparties each member of which is affiliated with each other member (each member of this group of counterparties is referred to in this subsection as an “affiliated specified counterparty”), or

(B) in the case of an affiliated counterparty, each affiliated counterparty

- (I) has entered into a specified synthetic equity arrangement with the same specified counterparty, or
- (II) has entered into a specified synthetic equity arrangement with an affiliated specified counterparty that is part of the same group of affiliated specified counterparties, and

- (iii) has obtained accurate representations in writing from each of its specified counterparties, or from each member of the group of affiliated specified counterparties referred to in subclause (A)(II) or (B)(II), as appropriate, that

(A) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31), and

(B) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31);

(c) the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, with respect to the synthetic equity arrangement that the counterparty, or each affiliated counterparty, as appropriate

(i) is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31),

(ii) has entered into specified synthetic equity arrangements

(A) that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share,

(B) where no single specified counterparty or group of affiliated specified counterparties has been provided with all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share, and

(C) where each specified counterparty or affiliated specified counterparty deals at arm's length with each other (other than in the case of affiliated specified counterparties, within the same group, of affiliated specified counterparties), and

(iii) has obtained accurate representations in writing from each of its specified counterparties, or from each of its affiliated specified counterparties, that

(A) it is a person resident in Canada and it does not reasonably expect to cease to be resident in Canada during the particular period referred to in subsection (2.31), and

(B) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31); or

(d) where a person or partnership is a party to a synthetic equity arrangement chain in respect of the share, the person or partnership

(i) has obtained all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share under the synthetic equity arrangement chain,

(ii) has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share, and

(iii) obtains accurate representations in writing of the type described in paragraph (a), (b) or (c), as if it were a synthetic equity arrangement party, from each of its counterparties where each such counterparty deals at arm's length with that person or partnership.

End of particular period

(2.33) If, at a time during a particular period referred to in subsection (2.31), a counterparty, specified counterparty, affiliated counterparty or affiliated specified counterparty reasonably expects to become a tax-indifferent investor or, if it has provided a representation described by subparagraph (2.32)(a)(ii) or clause (2.32)(b)(iii)(B) or (c)(iii)(B) in respect of a share, to eliminate all or substan-

tially all of its risk of loss and opportunity for gain or profit in respect of the share, the particular period for which it has provided a representation in respect of the share is deemed to end at that time.

Interpretation

(2.34) For greater certainty, each reference in subsection (2.32) to a “counterparty”, a “specified counterparty”, an “affiliated counterparty” or an “affiliated specified counterparty” is to be read as referring only to a person or partnership that obtains all or any portion of the risk of loss or opportunity for gain or profit in respect of the share.

(2) Section 112 of the Act is amended by adding the following after subsection (9):

Synthetic equity arrangements – ordering

(10) For the purposes of subsections (3), (3.1), (4), (4.1) and (5.2), if a synthetic equity arrangement is in respect of a number of shares that are identical properties (referred to in this subsection as “identical shares”) that is less than the total number of such identical shares owned by a person or partnership at that time and in respect of which there is no other synthetic equity arrangement, the synthetic equity arrangement is deemed to be in respect of those identical shares in the order in which the person or partnership acquired them.

(3) Subsection (1) applies to

(a) dividends that are paid or become payable after April 2017; and

(b) dividends that are paid or become payable at any time after October 2015 and before May 2017 on a share if

(i) there is a synthetic equity arrangement, or one or more agreements or arrangements described by paragraph (d) of the definition “dividend rental arrangement”, in respect of the share at that time, and

(ii) after April 21, 2015 and before that time, all or any part of the synthetic equity arrangement, or the agreements or arrangements, referred to in subparagraph (i) — including an option, swap, futures contract, forward contract or other financial or commodity contract or instrument as well as a right or obligation under the terms of such a contract or instrument — that contributes or could contribute to the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit, in respect of the share, to one or more persons or partnerships is

(A) entered into, acquired, extended or renewed after April 21, 2015, or

(B) in the case of a right to increase the notional amount under an agreement that is or is part of the synthetic equity arrangement, is exercised or acquired after April 21, 2015.

(4) Subsection (2) is deemed to have come into force on April 22, 2015.

8. (1) The definition “dividend rental arrangement” in subsection 248(1) of the Act is replaced by the following:

“dividend rental arrangement”
« mécanisme de transfert de dividendes » ou
« MTD »

“dividend rental arrangement”, of a person or a partnership (each of which is referred to in this definition as the “person”), means

(a) any arrangement entered into by the person where it can reasonably be considered that

(i) the main reason for the person entering into the arrangement was to enable the person to receive a dividend on a share of the capital stock of a corporation, other than a dividend on a prescribed share or on a share described in paragraph (e) of the definition “term preferred share” in this subsection or an amount deemed by subsection 15(3) to be received as a dividend on a share of the capital stock of a corporation, and

(ii) under the arrangement someone other than that person bears the risk of loss or enjoys the opportunity for gain or profit with respect to the share in any material respect,

(b) for greater certainty, any arrangement under which

(i) a corporation at any time receives on a particular share a taxable dividend that would, if this Act were read without reference to subsection 112(2.3), be deductible in computing its taxable income or taxable income earned in Canada for the taxation year that includes that time, and

(ii) the corporation or a partnership of which the corporation is a member is obligated to pay to another person or partnership an amount

(A) that is compensation for

(I) the dividend described in subparagraph (i),

(II) a dividend on a share that is identical to the particular share, or

(III) a dividend on a share that, during the term of the arrangement, can reasonably be expected to provide to a holder of the share the same or substantially the same proportionate risk of loss or opportunity for gain as the particular share, and

(B) that, if paid, would be deemed by subsection 260(5.1) to have been received by that other person or partnership, as the case may be, as a taxable dividend,

(c) any synthetic equity arrangement, in respect of a DRA share of the person, and

(d) one or more agreements or arrangements (other than agreements or arrangements described in paragraph (c)) entered into by the person, the connected person referred to in paragraph (a) of the definition “synthetic equity arrangement” or, for greater certainty, by any combination of the person and connected persons, if

(i) the agreements or arrangements have the effect, or would have the effect if each agreement entered into by a connected person were entered into by the person, of eliminating all or substantially all of the person’s risk of loss and opportunity for gain or profit in respect of a DRA share of the person,

(ii) as part of a series of transactions that includes these agreements or arrangements, a tax-indifferent investor, or a group of tax-indifferent investors each member of which is affiliated with every other member, obtains all or substantially all of the risk of loss and opportunity for gain or profit in respect of the DRA share or an identical share (as defined in subsection 112(10)), and

(iii) it is reasonable to conclude that one of the purposes of the series of transactions is to obtain the result described in subparagraph (ii);

(2) Subsection 248(1) of the Act is amended by adding the following in alphabetical order:

“DRA share”
« action de
mécanisme de
transfert de
dividendes »

“DRA share”, of a person or partnership, means a share

(a) that is owned by the person or partnership,

(b) in respect of which the person or partnership is deemed to have received a dividend under subsection 260(5.1) and is provided with all or substantially all of the risk of loss and opportunity for gain or profit under an agreement or arrangement,

(c) that is held by a trust under which the person or partnership is a beneficiary and in respect of which the person or partnership is deemed to have received a dividend as a result of a designation by the trust under subsection 104(19), or

	(d) in respect of which the person or partnership is deemed to have received a dividend under subsection 82(2);
“recognized derivatives exchange” « bourse reconnue en instruments financiers dérivés »	“recognized derivatives exchange” means a person or partnership recognized or registered under the securities laws of a province to carry on the business of providing the facilities necessary for the trading of options, swaps, futures contracts or other financial contracts or instruments whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest;
“specified mutual fund trust” « fiducie de fonds commun de placement déterminée »	“specified mutual fund trust”, at any time, means a mutual fund trust other than a mutual fund trust for which it can reasonably be considered, having regard to all the circumstances, including the terms and conditions of the units of the trust, that the total of all amounts each of which is the fair market value, at that time, of a unit issued by the trust and held by a person exempt from tax under section 149 is all or substantially all of the total of all amounts each of which is the fair market value, at that time, of a unit issued by the trust;
“specified synthetic equity arrangement” « arrangement de capitaux propres synthétiques déterminé »	<p>“specified synthetic equity arrangement”, in respect of a DRA share of a person or partnership, means one or more agreements or other arrangements that</p> <p>(a) have the effect of providing to a person or partnership all or any portion of the risk of loss or opportunity for gain or profit in respect of the DRA share and, for greater certainty, opportunity for gain or profit includes rights to, benefits from and distributions on a share, and</p> <p>(b) can reasonably be considered to have been entered into in connection with a synthetic equity arrangement, in respect of the DRA share, or in connection with another specified synthetic equity arrangement, in respect of the DRA share;</p>
“synthetic equity arrangement” « arrangement de capitaux propres synthétiques »	<p>“synthetic equity arrangement”, in respect of a DRA share of a person or partnership (referred to in this definition as the “particular person”),</p> <p>(a) means one or more agreements or other arrangements that</p> <p>(i) are entered into by the particular person, by a person or partnership that does not deal at arm’s length with, or is affiliated with, the particular person (referred to in this definition as a “connected person”) or, for greater certainty, by any combination of the particular person and connected persons, with one or more persons or partnerships (referred to in this definition as a “counterparty” and in subsection 112(2.32) as a “counterparty” or an “affiliated counterparty” as appropriate),</p> <p>(ii) have the effect, or would have the effect, if each agreement entered into by a connected person were entered into by the particular person, of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the DRA share to a counterparty or a group of counterparties each member of which is affiliated with every other member and, for greater certainty, opportunity for gain or profit includes rights to, benefits from and distributions on a share, and</p> <p>(iii) if entered into by a connected person, can reasonably be considered to have been entered into with the knowledge, or where there ought to have been the knowledge, that the effect described in subparagraph (ii) would result, and</p> <p>(b) does not include</p> <p>(i) an agreement that is traded on a recognized derivatives exchange unless it can reasonably be considered that, at the time the agreement is entered into,</p>

	<p>(A) the particular person or the connected person, as the case may be, knows or ought to know that its counterparty is a tax-indifferent investor, or</p> <p>(B) one of the main reasons for entering into the agreement is to obtain the benefit of a deduction in respect of a payment, or a reduction of an amount that would otherwise have been included in income, under the agreement, that corresponds to an expected or actual dividend in respect of a DRA share,</p> <p>(ii) one or more agreements or other arrangements that, but for this subparagraph, would be a synthetic equity arrangement, in respect of a share owned by the particular person (in this subparagraph referred to as the “synthetic short position”), if</p> <p>(A) the particular person has entered into one or more other agreements or other arrangements (other than, for greater certainty, an agreement under which the share is acquired or an agreement or arrangement under which the particular person receives a deemed dividend and is provided with all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share) that have the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share to the particular person (in this subparagraph referred to as the “synthetic long position”),</p> <p>(B) the synthetic short position has the effect of offsetting all amounts included or deducted in computing the income of the particular person with respect to the synthetic long position, and</p> <p>(C) the synthetic short position was entered into for the purpose of obtaining the effect referred to in clause (B), and</p> <p>(iii) an agreement to purchase the shares of a corporation, or a purchase agreement that is part of a series of agreements to purchase the shares of a corporation, under which a counterparty or a group of counterparties each member of which is affiliated with every other member acquires control of the corporation that has issued the shares being purchased, unless the main reason for establishing, incorporating or operating the corporation is to have this subparagraph apply;</p>
<p>“synthetic equity arrangement chain” « chaîne d’arrangements de capitaux propres synthétiques »</p>	<p>“synthetic equity arrangement chain”, in respect of a share owned by a person or partnership, means a synthetic equity arrangement — or a synthetic equity arrangement in combination with one or more specified synthetic equity arrangements — where</p> <p>(a) no party to the synthetic equity arrangement or a specified synthetic equity arrangement, if any, is a non-resident person or a partnership other than a Canadian partnership, and</p> <p>(b) each other party to these agreements or arrangements is affiliated with the person or partnership;</p>
<p>“tax-indifferent investor” « investisseur indifférent relativement à l’impôt »</p>	<p>“tax-indifferent investor”, at any time, means a person or partnership that is at that time</p> <p>(a) a person exempt from tax under section 149,</p> <p>(b) a non-resident person, other than a person to which all amounts paid or credited under a synthetic equity arrangement or a specified synthetic equity arrangement may reasonably be attributed to the business carried on by the person in Canada through a permanent establishment (as defined by regulation) in Canada,</p> <p>(c) a trust resident in Canada (other than a specified mutual fund trust) if any of the interests as a beneficiary under the trust is not a fixed interest (as defined in subsection 251.2(1)) in the trust (in this definition referred to as a “discretionary trust”),</p>

(d) a partnership more than 10% of the fair market value of all interests in which can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraphs (a) to (c), or

(e) a trust resident in Canada (other than a specified mutual fund trust or a discretionary trust) if more than 10% of the fair market value of all interests as beneficiaries under the trust can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraph (a) or (c);

(3) Section 248 of the Act is amended by adding the following after subsection (41):

(42) For the purposes of the definition “synthetic equity arrangement” in subsection (1), paragraphs (c) and (d) of the definition “dividend rental arrangement” in subsection (1) and subsections 112(2.31), (2.32) and (10), an arrangement that reflects the fair market value of more than one type of identical share (as defined in subsection 112(10)) is considered to be a separate arrangement with respect to each type of identical share the value of which the arrangement reflects.

(4) Subsection (1) applies to

(a) dividends that are paid or become payable after April 2017; and

(b) dividends that are paid or become payable at any time after October 2015 and before May 2017 on a share if

(i) there is a synthetic equity arrangement, or one or more agreements or arrangements described by paragraph (d) of the definition “dividend rental arrangement”, in respect of the share at that time, and

(ii) after April 21, 2015 and before that time, all or any part of the synthetic equity arrangement, or the agreements or arrangements, referred to in subparagraph (i) — including an option, swap, futures contract, forward contract or other financial or commodity contract or instrument as well as a right or obligation under the terms of such a contract or instrument — that contributes or could contribute to the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit, in respect of the share, to one or more persons or partnerships is

(A) entered into, acquired, extended or renewed after April 21, 2015, or

(B) in the case of a right to increase the notional amount under an agreement that is or is part of the synthetic equity arrangement, is exercised or acquired after April 21, 2015.

(5) Subsections (2) and (3) are deemed to have come into force on April 22, 2015.

9. (1) The portion of section 8201 of the *Income Tax Regulations* before paragraph (a) is replaced by the following:

8201. For the purposes of subsection 16.1(1), the definition “outstanding debts to specified non-residents” in subsection 18(5), subsections 100(1.3) and 112(2), the definition “qualified Canadian transit organization” in subsection 118.02(1), subsections 125.4(1) and 125.5(1), the definition “taxable supplier” in subsection 127(9), subparagraph 128.1(4)(b)(ii), paragraphs 181.3(5)(a) and 190.14(2)(b), the definitions “Canadian banking business” and “tax-indifferent investor” in subsection 248(1) and paragraph 260(5)(a) of the Act, a “permanent establishment” of a person or partnership (either of whom is referred to in this section as the “person”) means a fixed place of business of the person, including an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a work-

shop or a warehouse if the person has a fixed place of business and, where the person does not have any fixed place of business, the principal place at which the person's business is conducted, and

(2) Subsection (1) is deemed to have come into force on April 22, 2015.

TAX AVOIDANCE OF CORPORATE CAPITAL GAINS (SECTION 55)

10. (1) Paragraph 52(3)(a) of the *Income Tax Act* is replaced by the following:

(a) where the stock dividend is a dividend,

(i) in the case of a shareholder that is an individual, the amount of the stock dividend, and

(ii) in any other case, the total of all amounts each of which is

(A) the amount, if any, by which

(I) the amount that is the lesser of the amount of the stock dividend and its fair market value,

exceeds

(II) the amount of the dividend that the shareholder may deduct under subsection 112(1) in computing the shareholder's taxable income, except any portion of the dividend that, if paid as a separate dividend, would not be subject to subsection 55(2) because the amount of the separate dividend would not exceed the amount of the income earned or realized by any corporation – after 1971 and before the safe-income determination time for the transaction, event or series of transactions or events as part of which the dividend is received – that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received, and

(B) the amount determined by the formula

$$A + B$$

where

A is the amount of the deemed gain under paragraph 55(2)(c) in respect of that stock dividend, and

B is the amount, if any, by which the amount of the reduction under paragraph 55(2.3)(b) in respect of that stock dividend to which paragraph 55(2)(a) would otherwise apply exceeds the amount determined for clause (A) in respect of that dividend.

(2) Subsection (1) applies to stock dividends received after April 20, 2015, except that, in respect of stock dividends that are declared after April 20, 2015 and before Announcement Date and that are received no more than 60 days after Announcement Date,

(a) **clause 52(3)(a)(ii)(A), as enacted by subsection (1), is to be read as follows: “(A) the lesser of the amount of the stock dividend and its fair market value, and”;** and

(b) **the description of B in clause 52(3)(a)(ii)(B), as enacted by subsection (1), is to be read without reference to the words “to which paragraph 55(2)(a) would otherwise apply.”**

11. (1) Subparagraph 53(1)(b)(ii) of the Act is replaced by the following:

(ii) the portion of the total determined under subparagraph (i) that relates to dividends in respect of which the taxpayer was permitted a deduction under subsection 112(1) in computing the taxpayer's taxable income, except any portion of the dividend that, if paid as a separate dividend, would not be subject to subsection 55(2) because the amount of the separate dividend would not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series of transactions or events as part of which the dividend is received — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received;

(2) Subsection (1) applies to dividends received after April 20, 2015.

12. (1) Paragraph (j) of the definition “proceeds of disposition” in section 54 of the Act is replaced by the following:

(j) any amount that would otherwise be proceeds of disposition of a share to the extent that the amount is deemed by subsection 84(2) or (3) to be a dividend received except to the extent the dividend is deemed

(i) by paragraph 55(2)(b) to be proceeds of disposition of the share, or

(ii) by subparagraph 88(2)(b)(ii) not to be a dividend, or

(2) Subsection (1) applies to dividends received after April 20, 2015.

13. (1) Subsection 55(2) of the Act is replaced by the following:

(2) If this subsection applies to a taxable dividend received by a dividend recipient, notwithstanding any other provision of this Act, the amount of the dividend (other than the portion of it, if any, subject to tax under Part IV that is not refunded as a consequence of the payment of a dividend by a corporation where the payment is part of the series referred to in subsection (2.1)) is deemed

(a) not to be a dividend received by the dividend recipient;

(b) if the dividend is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, to which subsection 84(2) or (3) applies, to be proceeds of disposition of the share that is redeemed, acquired or cancelled except to the extent that the dividend is otherwise included in computing those proceeds; and

(c) if paragraph (b) does not apply to the dividend, to be a gain of the dividend recipient, for the year in which the dividend was received, from the disposition of a capital property.

(2.1) Subsection (2) applies to a taxable dividend received by a corporation resident in Canada (in subsections (2) to (2.2) and (2.4) referred to as the “dividend recipient”) as part of a transaction or event or a series of transactions or events if

(a) the dividend recipient is entitled to a deduction in respect of the dividend under subsection 112(1) or (2) or 138(6);

(b) it is the case that

(i) one of the purposes of the payment or receipt of the dividend (or, in the case of a dividend under subsection 84(3), one of the results of which) is to effect a significant reduction in the portion of the capital gain that, but for the dividend, would have been realized on a disposition at fair market value of any share of capital stock immediately before the dividend, or

Deemed
proceeds or gain

Application of
ss. (2)

(ii) the dividend (other than a dividend that is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, to which subsection 84(2) or (3) applies) is received on a share that is held as capital property by the dividend recipient and one of the purposes of the payment or receipt of the dividend is to effect

(A) a significant reduction in the fair market value of any share, or

(B) a significant increase in the cost of property, such that the amount that is the total of the cost amounts of all properties of the dividend recipient immediately after the dividend is significantly greater than the amount that is the total of the cost amounts of all properties of the dividend recipient immediately before the dividend; and

(c) the amount of the dividend exceeds the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received.

Special rule —
amount of the
stock dividend

(2.2) For the purpose of applying subsections (2), (2.1), (2.3) and (2.4), the amount of a stock dividend and the dividend recipient's entitlement to a deduction under subsection 112(1) or (2) or 138(6) in respect of the amount of that dividend is to be determined as if paragraph (b) of the definition "amount" in subsection 248(1) read as follows:

(b) in the case of a stock dividend paid by a corporation, the greater of

(i) the amount by which the paid-up capital of the corporation that paid the dividend is increased by reason of the payment of the dividend, and

(ii) the fair market value of the share or shares issued as a stock dividend at the time of payment,

Stock dividends
and safe income

(2.3) If this subsection applies

(a) the amount of the stock dividend is deemed for the purpose of subsection (2) to be a separate taxable dividend to the extent of the portion of the amount that does not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received; and

(b) the amount of the separate taxable dividend referred to in paragraph (a) is deemed to reduce the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received.

Application of
ss. (2.3)

(2.4) Subsection (2.3) applies in respect of a stock dividend if

(a) a dividend recipient holds a share upon which it receives the stock dividend;

(b) the fair market value of the share or shares issued as a stock dividend exceeds the amount by which the paid-up capital of the corporation that paid the stock dividend is increased because of the dividend; and

(c) subsection (2) would apply to the dividend if subsection (2.1) were read without reference to its paragraph (c).

Determination
of reduction in
fair market value

(2.5) For the purpose of applying clause (2.1)(b)(ii)(A), whether a dividend causes a significant reduction in the fair market value of any share is to be determined as if the fair market value of the share, immediately before the dividend, was increased by an amount equal to the amount, if any, by which the fair market value of the dividend received on the share exceeds the fair market value of the share.

(2) The portion of paragraph 55(3)(a) of the Act that is before subparagraph (i) is replaced by the following:

(a) in the case of a dividend that is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, to which subsection 84(2) or (3) applies, if, as part of a transaction or event or a series of transactions or events as a part of which the dividend is received, there was not at any particular time

(3) Subparagraph 55(3.01)(d)(i) of the Act of the Act is replaced by the following:

(i) subparagraph (j)(i) of the definition “proceeds of disposition” in section 54, and

(4) The portion of paragraph 55(5)(f) of the Act before subparagraph (i) is replaced by the following:

(f) except where subsection (2.3) applies, if a corporation has received a dividend any portion of which is a taxable dividend,

(5) Subsections (1) to (4) apply to dividends received after April 20, 2015.

14. (1) Clause (a)(i)(A) of the definition “capital dividend account” in subsection 89(1) of the Act is replaced by the following:

(A) the amount of the corporation’s capital gain – computed without reference to subclause 52(3)(a)(ii)(A)(II) and subparagraph 53(1)(b)(ii) – from the disposition (other than a disposition under paragraph 40(3.1)(a) or subsection 40(12) or a disposition that is the making of a gift after December 8, 1997 that is not a gift described in subsection 110.1(1)) of a property in the period beginning at the beginning of its first taxation year that began after the corporation last became a private corporation and that ended after 1971 and ending immediately before the particular time (in this definition referred to as “the period”)

(2) Clause (a)(ii)(A) of the definition “capital dividend account” in subsection 89(1) of the Act is replaced by the following:

(A) the amount of the corporation’s capital loss – computed without reference to subclause 52(3)(a)(ii)(A)(II) and subparagraph 53(1)(b)(ii) – from the disposition (other than a disposition under subsection 40(3.12) or a disposition that is the making of a gift after December 8, 1997 that is not a gift described in subsection 110.1(1)) of a property in the period

(3) Subsections (1) and (2) apply to dispositions made after April 20, 2015.

WITHHOLDING FOR NON-RESIDENT EMPLOYERS

15. (1) Paragraph 153(1)(a) of the Act is replaced by the following:

(a) salary, wages or other remuneration, other than

(i) amounts described in subsection 212(5.1), and

	(ii) amounts paid at any time by an employer to an employee if, at that time, the employer is a qualifying non-resident employer and the employee is a qualifying non-resident employee,
	(2) Subsection 153(6) of the Act is replaced by the following:
Definitions	(6) <u>The following definitions apply in this section.</u>
“designated financial institution” « institution financière désignée »	<p>“designated financial institution” means a corporation that</p> <p>(a) is a bank, other than an authorized foreign bank that is subject to the restrictions and requirements referred to in subsection 524(2) of the <i>Bank Act</i>;</p> <p>(b) is authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public; or</p> <p>(c) is authorized under the laws of Canada or a province to accept deposits from the public and carries on the business of lending money on the security of real property or immovables or investing in indebtedness on the security of mortgages on real property or of hypothecs on immovables.</p>
“qualifying non-resident employee” « employé non-résident admissible »	<p>“qualifying non-resident employee”, at any time in respect of a payment referred to in paragraph (1)(a), means an employee who</p> <p>(a) is, at that time, resident in a country with which Canada has a tax treaty;</p> <p>(b) is not liable to tax under this Part in respect of the payment because of that treaty; and</p> <p>(c) works in Canada for less than 45 days in the calendar year that includes that time or is present in Canada for less than 90 days in any 12-month period that includes that time.</p>
“qualifying non-resident employer” « employeur non-résident admissible »	<p>“qualifying non-resident employer”, at any time, means an employer</p> <p>(a) that is at that time</p> <p>(i) in the case of an employer that is not a partnership, resident in a country with which Canada has a tax treaty, and</p> <p>(ii) in the case of an employer that is a partnership, a partnership in respect of which the total of all amounts, each of which is a share of the partnership’s income or loss for the fiscal period that includes that time of a member that is, at that time, resident in a country with which Canada has a tax treaty, is not less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be \$1,000,000 for the purpose of determining a member’s share of the partnership’s income for the purposes of this subparagraph; and</p> <p>(b) that is at that time certified by the Minister under subsection (7).</p>
Certification by Minister	<p>(7) The Minister may</p> <p>(a) certify an employer for a specified period of time if the employer has applied in prescribed form containing prescribed information and the Minister is satisfied that the employer</p> <p>(i) meets the conditions in paragraph (a) of the definition “qualifying non-resident employer”, and</p> <p>(ii) meets the conditions established by the Minister; and</p> <p>(b) revoke an employer’s certification if the Minister is no longer satisfied that the employer meets the conditions referred to in subparagraphs (a)(i) or (ii).</p>
	(3) Subsections (1) and (2) apply in respect of payments made after 2015.

No penalty —
qualifying non-
resident
employers

16. (1) Section 227 of the Act is amended by adding the following after subsection (8.5):

(8.6) Subsection (8) does not apply to a qualifying non-resident employer (as defined in subsection 153(6)) in respect of a payment made to an employee if, after reasonable inquiry, the employer had no reason to believe at the time of the payment that the employee was not a qualifying non-resident employee (as defined in subsection 153(6)).

(2) Subsection (1) applies in respect of payments made after 2015.

17. (1) Subsection 200(1) of the *Income Tax Regulations* is replaced by the following:

200. (1) Subject to subsection (1.1), every person who makes a payment described in subsection 153(1) of the Act (including an amount paid that is described in subparagraph 153(1)(a)(ii) of the Act) shall make an information return in prescribed form in respect of the payment unless an information return in respect of the payment has been made under sections 202, 214, 237 or 238.

(1.1) Subsection (1) does not apply in respect of

(a) an annuity payment in respect of an interest in an annuity contract to which subsection 201(5) applies, or

(b) an amount paid by a qualifying non-resident employer to a qualifying non-resident employee that is exempted under subparagraph 153(1)(a)(ii) of the Act if the employer, after reasonable inquiry, has no reason to believe that the employee's total amount of taxable income earned in Canada under Part I of the Act during the calendar year that includes the time of this payment (including an amount described in paragraph 110(1)(f) of the Act) is more than \$10,000.

(2) Subsection (1) applies in respect of payments made after 2015.

18. (1) Section 210 of the Regulations is replaced by the following:

210. Every person who makes a payment described in section 153 of the Act (including an amount paid that is described in subparagraph 153(1)(a)(ii) of the Act), or who pays or credits, or is deemed by any of Part I, XIII and XIII.2 of the Act to have paid or credited, an amount described in that section, Part XIII or XIII.2 of the Act, shall, on demand by registered letter from the Minister, make an information return in prescribed form containing the information required in the return and shall file the return with the Minister within such reasonable time as is stipulated in the registered letter.

(2) Subsection (1) applies in respect of payments made after 2015.

CAPTIVE INSURANCE

19. (1) Paragraphs 95(2)(a.2) and (a.21) of the *Income Tax Act* are replaced by the following:

(a.2) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer

(i) there shall be included the income of the affiliate for the year from the insurance of specified Canadian risks (which, for the purposes of this paragraph, includes income for the year from the reinsurance of specified Canadian risks), unless more than 90% of the gross premium revenue of the affiliate for the year from the insurance of risks (net of reinsurance ceded) was in respect of the insurance of risks (other than specified Canadian risks) of persons with whom the affiliate deals at arm's length

(ii) if subparagraph (i) applies to include income of the affiliate from the insurance of specified Canadian risks,

(A) the insurance of those risks is deemed to be a separate business, other than an active business, carried on by the affiliate, and

(B) any income of the affiliate that pertains to or is incident to that business is deemed to be income from a business other than an active business,

(iii) there shall be included the income of the affiliate for the year in respect of the ceding of specified Canadian risks — except to the extent that the income is included because of subparagraph (i) or (ii) — which, for the purposes of this paragraph, includes

(A) income of the affiliate from services in respect of the ceding of specified Canadian risks, and

(B) except to the extent the amount is included under clause (A), the amount, if any, by which the fair market value of the consideration provided in respect of the ceding of the specified Canadian risks exceeds the affiliate's cost in respect of those specified Canadian risks, and

(iv) if subparagraph (iii) applies to include income of the affiliate in respect of the ceding of specified Canadian risks,

(A) the ceding of those risks is deemed to be a separate business, other than an active business, carried on by the affiliate, and

(B) any income of the affiliate that pertains to or is incident to that business is deemed to be income from a business other than an active business;

(a.21) for the purposes of paragraph (a.2), one or more risks insured by a foreign affiliate of a taxpayer that, if this Act were read without reference to this paragraph, would not be specified Canadian risks (in this paragraph referred to as the “foreign policy pool”) are deemed to be specified Canadian risks if

(i) the affiliate, or a person or partnership that does not deal at arm's length with the affiliate, enters into one or more agreements or arrangements in respect of the foreign policy pool,

(ii) the affiliate's risk of loss or opportunity for gain or profit in respect of the foreign policy pool, in combination with its risk of loss or opportunity for gain in respect of the agreements or arrangements, can reasonably be considered to be — or could reasonably be considered to be if the affiliate had entered into the agreements or arrangements entered into by the person or partnership — determined, in whole or in part, by reference to one or more criteria in respect of one or more risks insured by another person or partnership (in this paragraph referred to as the “tracked policy pool”), which criteria are

(A) the fair market value of the tracked policy pool,

(B) the revenue, income, loss or cash flow from the tracked policy pool, or

(C) any other similar criteria, and

(iii) 10% or more of the tracked policy pool consists of specified Canadian risks;

(2) Subsection 95(2) of the Act is amended by adding the following after paragraph (a.22):

(a.23) for the purposes of paragraphs (a.2) and (a.21), “specified Canadian risk” means a risk in respect of

- | (i) a person resident in Canada,
- | (ii) a property situated in Canada, or
- | (iii) a business carried on in Canada;

(3) Subsections (1) and (2) apply to taxation years of a taxpayer that begin after April 20, 2015.

CANADIAN EXPLORATION EXPENSE

20. (1) Paragraph (a) of the definition “Canadian exploration expense” in subsection 66.1(6) of the Act is replaced by the following:

(a) any expense incurred by the taxpayer (other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well) for the purpose of determining the existence, location, extent or quality of an accumulation of petroleum or natural gas (other than a mineral resource) in Canada, including such an expense that is

- (i) a geological, geophysical or geochemical expense, or
- (ii) an expense for environmental studies or community consultations (including studies or consultations that are undertaken to obtain a right, license or privilege for the purpose of determining the existence, location, extent or quality of an accumulation of petroleum or natural gas),

(2) The portion of paragraph (f) of the definition “Canadian exploration expense” in subsection 66.1(6) of the Act before subparagraph (i) is replaced by the following:

(f) any expense incurred by the taxpayer (other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well) for the purpose of determining the existence, location, extent or quality of a mineral resource in Canada including such an expense for environmental studies or community consultations (including, notwithstanding subparagraph (v), studies or consultations that are undertaken to obtain a right, license or privilege for the purpose of determining the existence, location, extent or quality of a mineral resource in Canada) and any expense incurred in the course of

(3) Subsections (1) and (2) apply in respect of expenses incurred after February 2015.