

Notice of Ways and Means Motion to implement certain provisions of the budget tabled in Parliament on March 23, 2004

That it is expedient to implement certain provisions of the budget tabled in Parliament on March 23, 2004, as follows:

SHORT TITLE

1. This Act may be cited as the *Budget Implementation Act, 2004, No. 2*.

PART 1

AMENDMENTS TO THE AIR TRAVELLERS SECURITY CHARGE ACT

2002, c. 9, s. 5

2. (1) The portion of paragraph 12(1)(a) of the *Air Travellers Security Charge Act* before subparagraph (i) is replaced by the following:

2003, c. 15, s. 44(1)

(a) \$5.61 for each chargeable emplanement included in the service, to a maximum of \$11.22, if

2003, c. 15, s. 44(1)

(2) The portion of paragraph 12(1)(b) of the Act before subparagraph (i) is replaced by the following:

(b) \$6.00 for each chargeable emplanement included in the service, to a maximum of \$12.00, if

2003, c. 15, s. 44(1)

(3) The portion of paragraph 12(1)(c) of the Act before subparagraph (i) is replaced by the following:

(c) \$9.35 for each chargeable emplanement included in the service, to a maximum of \$18.69, if

2003, c. 15, s. 44(1)

(4) The portion of paragraph 12(1)(d) of the Act before subparagraph (i) is replaced by the following:

(d) \$10.00 for each chargeable emplanement included in the service, to a maximum of \$20.00, if

2003, c. 15, s. 44(1)

(5) Paragraph 12(1)(e) of the Act is replaced by the following:

(e) \$20.00, if the service includes transportation to a destination outside the continental zone.

(6) The portion of paragraph 12(2)(a) of the Act before subparagraph (i) is replaced by the following:

(a) \$9.35 for each chargeable emplanement by an individual on an aircraft used to transport the individual to a destination outside Canada but within the continental zone, to a maximum of \$18.69, if

(7) The portion of paragraph 12(2)(b) of the Act before subparagraph (i) is replaced by the following:

(b) \$10.00 for each chargeable emplanement by an individual on an aircraft used to transport the individual to a destination outside Canada but within the continental zone, to a maximum of \$20.00, if

(8) Paragraph 12(2)(c) of the Act is replaced by the following:

(c) \$20.00, if the service includes transportation to a destination outside the continental zone.

(9) Subsections (1) to (8) apply in respect of any air transportation service that includes a chargeable emplanement on or after April 1, 2004 and for which any consideration is paid or becomes payable on or after April 1, 2004.

PART 2

2003, c. 15, s. 67

AMENDMENTS TO THE FIRST NATIONS GOODS AND SERVICES TAX ACT

3. (1) The definitions “administration agreement”, “governing body” and “lands” in subsection 2(1) of the *First Nations Goods and Services Tax Act* are replaced by the following:

“administration agreement”
« accord
d’application »

“administration agreement”, in Part 1, means an agreement referred to in subsection 5(2) and, in Part 2, means an agreement referred to in section 22.

“governing body”
« corps
dirigeant »

“governing body” means the body of a first nation that is identified opposite the name of the first nation listed in Schedule 1.

“lands”
« terres »

“lands”, of a first nation, means the lands that are described opposite the name of the first nation listed in Schedule 1.

(2) Subsections 2(2) and (3) of the Act are replaced by the following:

Expressions defined in s. 123(1) of the *Excise Tax Act*

(2) Unless a contrary intention appears, words and expressions used in Part 1 have the meanings assigned by subsection 123(1) of the *Excise Tax Act*.

Mobile home or floating home

(3) A mobile home or floating home is deemed to be tangible personal property for the purposes of applying the provisions of Part 1 and any first nation law, as defined in subsection 11(1) or 12(1), in respect of the bringing of tangible personal property onto the lands of a first nation.

4. The Act is amended by adding the following after section 2:

PART 1

FIRST NATIONS GOODS AND SERVICES TAX ACT

5. Subsection 3(2) of the Act is replaced by the following:

Section 89 of the *Indian Act*

(1.1) A first nation law, as defined in subsection 11(1) or 12(1), or an obligation to pay an amount that arises from the application of section 14, may be administered and enforced by Her Majesty in right of Canada or by an agent of the first nation despite section 89 of the *Indian Act*.

Subsection 4(1) applies despite any other Act of Parliament

(2) The governing body of a first nation listed in Schedule 1 may enact a law under subsection 4(1) that imposes a tax despite any other Act of Parliament that limits the authority of the first nation to enact a law that imposes a tax.

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

Authority to impose tax

4. (1) Subject to this section, the governing body of a first nation that is listed in Schedule 1 and that is a band or has the power to enact laws that has been recognized or granted under any other Act of Parliament or under an agreement that has been given effect by any other Act of Parliament may enact a law that imposes

(2) The portion of subsection 4(2) of the Act before paragraph (a) is replaced by the following:

Supply made on lands (2) For the purposes of subsection (1), a supply, other than an imported taxable supply, is made on the lands of a first nation only if at least one of the following conditions is met:

(3) The portion of subsection 4(4) of the Act before paragraph (a) is replaced by the following:

Imported taxable supply made on lands (4) For the purposes of paragraph (1)(c), an imported taxable supply is made on the lands of a first nation only if at least one of the following conditions is met:

(4) The portion of subsection 4(6) of the Act before paragraph (a) is replaced by the following:

Exception (6) For the purposes of paragraph (1)(b), a tax in respect of the bringing of property onto the lands of a first nation by a person shall not be imposed if

(5) Subsection 4(7) of the Act is replaced by the following:

Carriers (7) For the purposes of this Part, if a particular person brings property onto the lands of a first nation on behalf of another person, the other person, and not the particular person, is deemed to have brought the property onto those lands.

7. (1) Paragraphs 11(3)(a) and (b) of the Act are replaced by the following:

(a) every provision of Part IX of the *Excise Tax Act* (other than a provision that creates a criminal offence) applies, with any modifications that the circumstances require, for the purposes of the first nation law as if tax referred to in each of paragraphs 4(1)(a) and (c) imposed under the first nation law were imposed under subsection 165(1) and section 218 of the *Excise Tax Act* respectively and, subject to subsection 4(9), as if tax referred to in paragraph 4(1)(b) imposed under the first nation law were imposed under subsection 220.05(1) of the *Excise Tax Act* in respect of the bringing of property into a participating province, but the first nation law shall not thereby be construed as imposing a tax except as provided in section 4;

(b) the first nation law applies as if tax imposed under Part IX of the *Excise Tax Act* were imposed under the first nation law and as if the provisions of that Part (other than a provision that creates a criminal offence) relating to that tax were included in the first nation law, but the first nation law shall not thereby be construed as imposing a tax except as provided in section 4;

(2) Paragraph 11(3)(e) of the Act is amended by striking out the word “and” at the end of subparagraph (vi), by adding the word “and” at the end of subparagraph (vii) and by adding the following after subparagraph (vii):

(viii) nothing in this Part shall be construed as conferring on a governing body the power to make an enactment in respect of criminal law.

8. (1) Subsection 12(1) of the Act is replaced by the following:

Meaning of “first nation law” **12. (1)** In this section, “first nation law” means a law enacted by the governing body of a first nation listed in Schedule 1 under a power recognized or granted under any other Act of Parliament or an agreement that has been given effect by any other Act of Parliament, if that law and its application are consistent with subsections 4(1) to (10), paragraphs 11(3)(a) and (b) and subparagraphs 11(3)(e)(i) to (iii), (v) and (viii).

(2) Subsection 12(3) of the Act is replaced by the following:

Cessation of agreement (3) If an administration agreement in respect of a first nation law ceases to have effect at any time, this Part applies after that time in respect of the first nation law as if the first nation law had been repealed at that time.

9. Section 15 of the Act is replaced by the following:

Amendment of
Schedule 1

15. The Governor in Council may, by order, amend Schedule 1 by adding, deleting or varying the name of any first nation or of the governing body of any first nation or the description of the lands of any first nation.

10. The Act is amended by adding the following after section 16:

PART 2

FIRST NATIONS SALES TAX — QUEBEC

INTERPRETATION

Definitions

17. The following definitions apply in this Part and in Schedule 2.

“band law”
« *texte législatif
de bande* »

“band law” means a law enacted by a council of the band under section 23.

“council of the
band”
« *conseil de
bande* »

“council of the band” has the same meaning as in subsection 2(1) of the *Indian Act*.

“direct”
« *directe* »

“direct” has the same meaning, for the purpose of distinguishing between a direct and an indirect tax, as in class 2 of section 92 of the *Constitution Act, 1867*.

“parallel Quebec
law”
« *loi québécoise
parallèle* »

“parallel Quebec law”, in respect of a band law, means the enactment, or those provisions of it, of Quebec to which the band law is similar.

“reserves in
Quebec”
« *réserves au
Québec* »

“reserves in Quebec”, of a band, means the reserves within Quebec that are described opposite the name of that band listed in Schedule 2.

“sales tax”
« *taxe de vente* »

“sales tax” means any tax of general application payable on a value, price or quantity basis by a person in respect of the sale, rental, supply, consumption or use of a property or service.

APPLICATION OF OTHER ACTS

Section 87 of
the *Indian Act*
and similar
provisions

18. (1) The obligation to pay tax or any other amount that is required to be paid under a band law applies despite the application of the exemption under section 87 of the *Indian Act* and of any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section.

Section 89 of
the *Indian Act*

(2) A band law may be administered and enforced by an agent of the band despite section 89 of the *Indian Act*.

Not subject to
*Statutory
Instruments Act*

19. A band law is not subject to the *Statutory Instruments Act*.

Application of
section 23

20. A council of the band may enact a band law despite any other Act of Parliament that limits the authority of the council of the band to enact a law that imposes a tax.

Application of
other Acts

21. If a law of Quebec provides that one or more laws of Quebec apply as if the tax imposed under a band law were imposed under a particular law of Quebec, all Acts of Parliament, other than this Act, apply as if the tax imposed under the band law were imposed under that particular law of Quebec.

ADMINISTRATION AGREEMENT

Authority to enter into agreement **22.** A council of the band may, on behalf of the band, enter into an administration agreement with the Government of Quebec in respect of a band law enacted by that council.

DELEGATION

Authority to impose a direct sales tax **23.** (1) A council of the band that is listed in Schedule 2 may enact a law that imposes, within the reserves of the band in Quebec, a direct sales tax and any other amount that may be required to be paid in relation to the imposition of that direct sales tax.

Parallel Quebec law (2) A law may not be enacted under subsection (1) unless the law has only one parallel Quebec law that is expressly identified in that law.

Force of law (3) A law enacted under subsection (1) does not have the force of law unless
 (a) an administration agreement between the council of the band and the Government of Quebec in respect of the law is in effect;
 (b) the law is administered and enforced, and the direct sales tax imposed under that law is collected, in accordance with that administration agreement;
 (c) the band, the council of the band and the band's reserves in Quebec are listed in Schedule 2; and
 (d) its parallel Quebec law is in force.

Conformity with *Indian Act* (4) A law enacted under subsection (1) is valid only if the power of the council of the band to enact the law is exercised in conformity with paragraph 2(3)(b) of the *Indian Act* and no such law is invalid by reason of any defect in form.

Criminal law exclusion (5) Nothing in this Part shall be construed as conferring on a council of the band the power to make an enactment in respect of criminal law.

Coming into force — law under section 23 **24.** Subject to subsection 23(3), a band law comes into force on the date specified in an administration agreement with the Government of Quebec in respect of that law.

Proof of law **25.** A copy of a band law is, if it is certified to be a true copy by the Minister or a person authorized by the Minister, evidence that the law was duly enacted by the council of the band without proof of the signature or official character of the Minister or the person authorized by the Minister.

Publication of law **26.** A council of the band shall on demand provide a copy of any band law enacted by that council and shall publish a copy of every such law in a newspaper that has general circulation in the place where the law applies and in the *First Nations Gazette*, but no such law shall be invalid by reason of a failure to publish it.

Expenditures **27.** The power of a council of the band to expend moneys received by the council under an administration agreement is validly exercised only if the power is exercised in conformity with paragraph 2(3)(b) of the *Indian Act*.

Indian moneys **28.** Moneys raised under a band law are not Indian moneys within the meaning of subsection 2(1) of the *Indian Act*.

GENERAL

Amendment of Schedule 2 **29.** The Governor in Council may, by order, amend Schedule 2 by adding, deleting or varying the name of a band, a council of the band or the description of a band's reserves in Quebec.

11. The schedule to the Act is renumbered as Schedule 1 and is amended by adding the following in alphabetical order:

Column 1	Column 2	Column 3
First Nation	Governing Body	Lands
Burrard, also known as, the Tsleil-Waututh Nation	Council of Burrard	Reserve of Burrard
Tla-o-qui-aht	Council of the Tla-o-qui-aht First Nations	Reserve of the Tla-o-qui-aht First Nations

12. The Act is amended by adding, after Schedule 1, the Schedule 2 set out in the schedule to this Act.

PART 3

AMENDMENTS TO THE INCOME TAX ACT AND CERTAIN OTHER ACTS AS A CONSEQUENCE AND A COORDINATING AMENDMENT

INCOME TAX ACT

R.S., c. 1 (5th Supp.)

13. (1) Section 40 of the *Income Tax Act* is amended by adding the following after subsection (3.6):

Exception — estate loss carried back

(3.61) If, in the course of administering the estate of a deceased taxpayer, the taxpayer's legal representative elects in accordance with subsection 164(6) to treat all or any portion of the estate's capital loss (determined without reference to subsections (3.4) and (3.6)) from the disposition of a share of the capital stock of a corporation as a capital loss of the deceased taxpayer from the disposition of the share, subsections (3.4) and (3.6) apply to the estate in respect of the loss only to the extent that the amount of the loss exceeds the portion of the loss to which the election applies.

(2) Subsection (1) applies to losses from dispositions that occur or occurred after March 22, 2004.

14. (1) Clause 53(2)(h)(i.1)(B) of the Act is amended by striking out the word “or” at the end of subclause (I), by adding the word “or” at the end of subclause (II) and by adding the following after subclause (II):

(III) that is an assessable distribution (as defined in subsection 218.3(1)) to the taxpayer,

(2) Subsection (1) applies after 2004.

15. (1) Section 64 of the Act is replaced by the following:

Disability supports deduction

64. If a taxpayer files with the taxpayer's return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) for the taxation year a prescribed form containing prescribed information, there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount paid by the taxpayer in the year and that

- (i) was paid to enable the taxpayer
 - (A) to perform the duties of an office or employment,
 - (B) to carry on a business either alone or as a partner actively engaged in the business,
 - (C) to attend a designated educational institution or a secondary school at which the taxpayer is enrolled in an educational program, or
 - (D) to carry on research or any similar work in respect of which the taxpayer received a grant,
- (ii) was paid
 - (A) where the taxpayer has a speech or hearing impairment, for the cost of sign-language interpretation services or real time captioning services and to a person engaged in the business of providing such services,
 - (B) where the taxpayer is deaf or mute, for the cost of a teletypewriter or similar device, including a telephone ringing indicator, prescribed by a medical practitioner, to enable the taxpayer to make and receive telephone calls,
 - (C) where the taxpayer is blind, for the cost of a device or equipment, including synthetic speech systems, Braille printers, and large-print on-screen devices, prescribed by a medical practitioner, and designed to be used by blind individuals in the operation of a computer,
 - (D) where the taxpayer is blind, for the cost of an optical scanner or similar device, prescribed by a medical practitioner, and designed to be used by blind individuals to enable them to read print,
 - (E) where the taxpayer is mute, for the cost of an electronic speech synthesizer, prescribed by a medical practitioner, and designed to be used by mute individuals to enable them to communicate by use of a portable keyboard,
 - (F) where the taxpayer has a mental or physical impairment, for the cost of note-taking services and to a person engaged in the business of providing such services, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires such services,
 - (G) where the taxpayer has a physical impairment, for the cost of voice recognition software, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires that software,
 - (H) where the taxpayer has a learning disability or a mental impairment, for the cost of tutoring services that are rendered to, and supplementary to the primary education of, the taxpayer and to a person ordinarily engaged in the business of providing such services to individuals who are not related to the person, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that disability or impairment, requires those services,
 - (I) where the taxpayer has a perceptual disability, for the cost of talking textbooks used by the taxpayer in connection with the taxpayer's enrolment at a secondary school in

Canada or at a designated educational institution, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that disability, requires those textbooks, and

(J) where the taxpayer has a mental or physical infirmity, for the cost of attendant care services provided in Canada and to a person who is neither the taxpayer's spouse or common-law partner nor under 18 years of age, if the taxpayer is a taxpayer in respect of whom an amount may be deducted because of section 118.3, or if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that infirmity is, and is likely to be indefinitely, dependent on others for their personal needs and care and who as a result requires a full-time attendant,

(iii) is evidenced by one or more receipts filed with the Minister each of which was issued by the payee and contains, where the payee is an individual who is a person referred to in clause (ii)(J), that individual's Social Insurance Number, and

(iv) is not included in computing a deduction under section 118.2 for any taxpayer for any taxation year, and

B is the total of all amounts each of which is the amount of a reimbursement or any other form of assistance (other than prescribed assistance or an amount that is included in computing a taxpayer's income and that is not deductible in computing the taxpayer's taxable income) that any taxpayer is or was entitled to receive in respect of an amount included in computing the value of A, and

(b) the total of

(i) the total of all amounts each of which is

(A) an amount included under section 5, 6 or 7 or paragraph 56(1)(n), (o) or (r) in computing the taxpayer's income for the year, or

(B) the taxpayer's income for the year from a business carried on either alone or as a partner actively engaged in the business, and

(ii) where the taxpayer is in attendance at a designated educational institution or a secondary school at which the taxpayer is enrolled in an educational program, the least of

(A) \$15,000,

(B) \$375 times the number of weeks in the year during which the taxpayer is in attendance at the institution or school, and

(C) the amount, if any, by which the amount that would, if this Act were read without reference to this section, be the taxpayer's income for the year exceeds the total determined under subparagraph (i) in respect of the taxpayer for the year.

(2) Subsection (1) applies to the 2004 and subsequent taxation years.

16. (1) The Act is amended by adding the following after section 67.5:

67.6 In computing income, no deduction shall be made in respect of any amount that is a fine or penalty (other than a prescribed fine or penalty) imposed under a law of a country or of a political subdivision of a country (including a state, province or territory) by any person or public body that has authority to impose the fine or penalty.

(2) Subsection (1) applies to fines and penalties imposed after March 22, 2004.

17. (1) The portion of subsection 104(21) of the French version of the Act before paragraph (a) is replaced by the following:

Gain en capital
réputé réalisé par
le bénéficiaire

(21) Pour l'application des articles 3 et 111, sauf dans la mesure où ils s'appliquent dans le cadre de l'article 110.6, et sous réserve de l'alinéa 132(5.1)*b*), la fraction des gains en capital imposables nets d'une fiducie, pour une année d'imposition tout au long de laquelle elle a résidé au Canada, que la fiducie attribue à un bénéficiaire donné dans sa déclaration de revenu produite pour l'année en vertu de la présente partie est réputée être un gain en capital imposable, pour l'année, du bénéficiaire donné réalisé à la disposition par celui-ci d'une immobilisation, à condition :

(2) The portion of subsection 104(21) of the English version of the Act after paragraph (b) is replaced by the following:

shall, if so designated by the trust in respect of the particular beneficiary in the return of its income for the year under this Part, be deemed, for the purposes of sections 3 and 111, except as they apply for the purpose of section 110.6, and subject to paragraph 132(5.1)*b*), to be a taxable capital gain for the year of the particular beneficiary from the disposition by that beneficiary of capital property.

(3) Subsections (1) and (2) apply after March 22, 2004.

18. (1) Paragraph 110(1)(f) of the Act is amended by striking out the word “or” at the end of subparagraph (iii), by adding the word “or” at the end of subparagraph (iv) and by adding the following after subparagraph (iv):

(v) the lesser of

(A) the employment income earned by the taxpayer as a member of the Canadian Forces, or as a police officer, while serving on

(I) a deployed operational mission (as determined by the Department of National Defence) that is assessed for risk allowance at level 3 or higher (as determined by the Department of National Defence),

(II) a prescribed mission that is assessed for risk allowance at level 2 (as determined by the Department of National Defence), or

(III) any other mission that is prescribed, and

(B) the employment income that would have been so earned by the taxpayer if the taxpayer had been paid at the maximum rate of pay that applied, from time to time during the mission, to a non-commissioned member of the Canadian Forces;

(2) Subsection (1) applies to the 2004 and subsequent taxation years.

19. (1) Section 110.1 of the Act is amended by adding the following after subsection (1.1):

Where control
acquired

(1.2) Notwithstanding paragraph 88(1)*e.6*), if control of a particular corporation is acquired at any time by a person or group of persons,

(a) no amount is deductible under any of paragraphs (1)*a*) to (d) in computing any corporation's taxable income for a taxation year that ends on or after that time in respect of a gift made by the particular corporation before that time; and

(b) no amount is deductible under any of paragraphs (1)*a*) to (d) in computing any corporation's taxable income for a taxation year that ends on or after that time in respect of a gift made by any

corporation on or after that time if the property that is the subject of the gift was acquired by the particular corporation under an arrangement under which it was expected that control of the particular corporation would be so acquired by a person or group of persons, other than a qualified donee that received the gift, and the gift would be so made.

(2) Subsection (1) applies in respect of gifts made after March 22, 2004.

20. (1) Paragraph 111(1)(a) of the Act is replaced by the following:

(a) non-capital losses for the 10 taxation years immediately preceding and the 3 taxation years immediately following the year;

(2) The description of C in the definition “net capital loss” in subsection 111(8) of the Act is replaced by the following:

C is the least of

(a) the amount of the allowable business investment losses of the taxpayer for the taxpayer’s tenth preceding taxation year,

(b) the amount, if any, by which the amount of the non-capital loss of the taxpayer for the taxpayer’s tenth preceding taxation year exceeds the total of all amounts in respect of that non-capital loss deducted in computing the taxpayer’s taxable income or claimed by the taxpayer under paragraph 186(1)(c) or (d) for the year or for any preceding taxation year, and

(c) if the taxpayer is a corporation the control of which was acquired by a person or group of persons before the end of the year and after the end of the taxpayer’s tenth preceding taxation year, nil, and

(3) Subsections (1) and (2) apply in respect of losses that arise in taxation years that end after March 22, 2004, except that, for a taxation year of a taxpayer before the taxpayer’s eighth taxation year that ends after that date, paragraph (c) of the description of C in the definition “net capital loss” in subsection 111(8) of the Act, as enacted by subsection (2), is to be read as follows:

(c) where the taxpayer is a corporation the control of which was acquired by a person or group of persons before the end of the year and after the end of the taxpayer’s seventh preceding taxation year, nil, and

21. (1) Paragraph 115(1)(b) of the Act is replaced by the following:

(b) the only taxable capital gains and allowable capital losses referred to in paragraph 3(b) were taxable capital gains and allowable capital losses from dispositions, other than dispositions deemed under subsection 218.3(2), of taxable Canadian properties (other than treaty-protected properties), and

(2) Subsection (1) applies after 2004.

22. (1) The portion of subsection 117.1(1) of the Act before paragraph (a) is replaced by the following:

117.1 (1) Each of the amounts expressed in dollars in subsection 117(2), the description of B in subsection 118(1), subsection 118(2), the descriptions of C and F in subsection 118.2(1), subsections 118.3(1), 122.5(3) and 122.51(1) and (2) and Part I.2 in relation to tax payable under this Part or Part I.2 for a taxation year shall be adjusted so that the amount to be used under those provisions for the year is the total of

Non-capital
losses

Annual
adjustment

(2) Subsection (1) applies to the 2004 and subsequent taxation years.

23. (1) Paragraph 118.1(5.2)(a) of the Act is replaced by the following:

(a) for the purpose of this section (other than subsection (5.1) and this paragraph) and section 149.1, the transfer described in subsection (5.1) is deemed to be a gift made, immediately before the individual's death, by the individual to the qualified donee referred to in subsection (5.1); and

(2) Paragraph 118.1(5.3)(a) of the Act is replaced by the following:

(a) for the purposes of this section (other than this paragraph) and section 149.1, the transfer is deemed to be a gift made, immediately before the individual's death, by the individual to the donee; and

(3) Subsections (1) and (2) apply in respect of deaths that occur after 1998.

24. (1) Subsection 118.2(1) of the Act is replaced by the following:

118.2 (1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted the amount determined by the formula

$$A \times [(B - C) + D]$$

where

A is the appropriate percentage for the taxation year;

B is the total of the individual's medical expenses in respect of the individual, the individual's spouse, the individual's common-law partner or a child of the individual who has not attained the age of 18 years before the end of the taxation year

(a) that are evidenced by receipts filed with the Minister,

(b) that were not included in determining an amount under this subsection, section 64 or subsection 122.51(2), for a preceding taxation year,

(c) that are not included in determining an amount under this subsection, section 64 or subsection 122.51(2), by any other taxpayer for any taxation year, and

(d) that were paid by the individual or the individual's legal representative within any period of 12 months that ends in the taxation year or, if those expenses were in respect of a person (including the individual) who died in the taxation year, within any period of 24 months that includes the day of the person's death;

C is the lesser of \$1,813 and 3% of the individual's income for the taxation year; and

D is the total of all amounts each of which is, in respect of a dependant of the individual (within the meaning assigned by subsection 118(6), other than a child of the individual who has not attained the age of 18 years before the end of the taxation year), the lesser of \$5,000 and the amount determined by the formula

$$E - F$$

where

E is the total of the individual's medical expenses in respect of the dependant

(a) that are evidenced by receipts filed with the Minister,

(b) that were not included in determining an amount under this subsection, or subsection 122.51(2), in respect of the individual for a preceding taxation year,

(c) that are not included in determining an amount under this subsection, or subsection 122.51(2), by any other taxpayer for any taxation year, and

(d) that were paid by the individual or the individual's legal representative within the period referred to in paragraph (d) of the description of B; and

F is the lesser of \$1,813 and 3% of the dependant's income for the taxation year.

(2) Subsection (1) applies to the 2004 and subsequent taxation years.

(3) For the 2001 to 2003 taxation years, the description of B in subsection 118.2(1) of the Act is to be read as follows:

B is the total of the individual's medical expenses

(a) that are evidenced by receipts filed with the Minister,

(b) that were not included in determining an amount under this subsection or subsection 122.51(2) for a preceding taxation year, and

(c) that were paid by the individual or the individual's legal representative within any period of 12 months that ends in the taxation year or, if those expenses were in respect of a person (including the individual) who died in the taxation year, within any period of 24 months that includes the day of the person's death;

25. (1) The definition "qualifying educational program" in subsection 118.6(1) of the Act is replaced by the following:

"qualifying educational program"
« programme de formation admissible »

"qualifying educational program" means a program of not less than three consecutive weeks duration that provides that each student taking the program spend not less than ten hours per week on courses or work in the program and, in respect of a program at an institution described in the definition "designated educational institution" (other than an institution described in subparagraph (a)(ii) of that definition), that is a program at a post-secondary school level but, in relation to any particular student, does not include a program if the student receives, from a person with whom the student is dealing at arm's length, any allowance, benefit, grant or reimbursement for expenses in respect of the program other than

(a) an amount received by the student as or on account of a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the student,

(b) a benefit, if any, received by the student because of a loan made to the student in accordance with the requirements of the *Canada Student Loans Act* or *An Act respecting financial assistance for education expenses*, R.S.Q., c. A-13.3, or because of financial assistance given to the student in accordance with the requirements of the *Canada Student Financial Assistance Act*, or

(c) an amount that is received by the student in the year under a program referred to in subparagraph 56(1)(r)(ii) or (iii), a program established under the authority of the *Department of Human Resources Development Act* or a prescribed program;

(2) Subsection (1) applies to the 2004 and subsequent taxation years.

(3) For the 1998 to 2003 taxation years, subparagraph (a)(ii) of the definition "qualifying educational program" in subsection 118.6(1) of the Act is to be read as follows:

(ii) a benefit, if any, received by the student because of a loan made to the student in accordance with the requirements of the *Canada Student Loans Act* or *An Act respecting financial assistance for education expenses*, R.S.Q., c. A-13.3, or because of financial assistance given to the student in accordance with the requirements of the *Canada Student Financial Assistance Act*, or

26. (1) Paragraph (b) of the description of A in subsection 122.51(2) of the Act is replaced by the following:

(b) the total of

(i) 25/16 of the total of all amounts each of which is the amount determined by the formula in subsection 118.2(1) for the purpose of computing the individual's tax payable under this Part for a taxation year that ends in the calendar year, and

(ii) 25% of the total of all amounts each of which is the amount deductible under section 64 in computing the individual's income for a taxation year that ends in the calendar year; and

(2) Subsection (1) applies to the 2004 and subsequent taxation years.

27. (1) Paragraph 126(2)(a) of the Act is replaced by the following:

(a) such part of the total of the business-income tax paid by the taxpayer for the year in respect of businesses carried on by the taxpayer in that country and the taxpayer's unused foreign tax credits in respect of that country for the 10 taxation years immediately preceding and the 3 taxation years immediately following the year as the taxpayer may claim,

(2) Subsection (1) applies in respect of unused foreign tax credits computed for taxation years that end after March 22, 2004.

28. (1) Paragraph (a) of the definition "flow-through mining expenditure" in subsection 127(9) of the Act is replaced by the following:

(a) that is a Canadian exploration expense incurred after October 17, 2000 and before 2006 by a corporation in conducting mining exploration activity from or above the surface of the earth for the purpose of determining the existence, location, extent or quality of a mineral resource described in paragraph (a) or (d) of the definition "mineral resource" in subsection 248(1),

(2) Section 127 of the Act is amended by adding the following after subsection (10.21):

(10.22) If a particular Canadian-controlled private corporation is associated with another corporation in circumstances where those corporations would not be associated if the Act were read without reference to paragraph 256(1.2)(a), the particular corporation has issued shares to one or more persons who have been issued shares by the other corporation and there is at least one shareholder of the particular corporation who is not a shareholder of the other corporation or one shareholder of the other corporation who is not a shareholder of the particular corporation, the particular corporation is not associated with the other corporation for the purpose of

(a) determining the particular corporation's expenditure limit under subsection (10.2); and

(b) determining the particular corporation's business limit under section 125, as applied for the purpose only of determining the particular corporation's expenditure limit under subsection (10.2).

(10.23) Subsection (10.22) applies to the particular corporation and the other corporation referred to in that subsection only if the Minister is satisfied that

Expenditure
limits —
associated
CCPCs

Application of
subsection
(10.22)

(a) the particular corporation and the other corporation are not otherwise associated under this Act; and

(b) the existence of one or more shareholders of the particular corporation who is not a shareholder of the other corporation, or the existence of one or more shareholders of the other corporation who is not a shareholder of the particular corporation, is not for the purpose of satisfying the requirements of subsection (10.22) or 127.1(2.2).

(3) Subsection (1) applies after March 23, 2004.

(4) Subsection (2) applies to taxation years that end after March 22, 2004.

29. (1) Section 127.1 of the Act is amended by adding the following after subsection (2.1):

(2.2) If a particular Canadian-controlled private corporation is associated with another corporation in circumstances where those corporations would not be associated if the Act were read without reference to paragraph 256(1.2)(a), the particular corporation has issued shares to one or more persons who have been issued shares by the other corporation and there is at least one shareholder of the particular corporation who is not a shareholder of the other corporation or one shareholder of the other corporation who is not a shareholder of the particular corporation, the particular corporation is not associated with the other corporation for the purpose of calculating that portion of the particular corporation's refundable investment tax credit that is in respect of qualified expenditures.

Refundable investment tax credit — associated CCPCs

(2.3) Subsection (2.2) applies to the particular corporation and the other corporation referred to in that subsection only if the Minister is satisfied that

Application of subsection (2.2)

(a) the particular corporation and the other corporation are not otherwise associated under this Act; and

(b) the existence of one or more shareholders of the particular corporation who is not a shareholder of the other corporation, or the existence of one or more shareholders of the other corporation who is not a shareholder of the particular corporation, is not for the purpose of satisfying the requirements of subsection (2.2) or 127(10.22).

(2) Subsection (1) applies to taxation years that end after March 22, 2004.

30. (1) The portion of paragraph 131(1)(b) of the Act before subparagraph (i) is replaced by the following:

(b) notwithstanding any other provision of this Act (other than paragraph (5.1)(b)), any amount received by a taxpayer in a taxation year as, on account of, in lieu of payment of or in satisfaction of, the dividend shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, and

(2) Section 131 of the Act is amended by adding the following after subsection (5):

(5.1) If a mutual fund corporation elects under subsection (1) to treat a dividend as a capital gains dividend, for the purposes of this Part and Part XIII,

TCP gains distribution

(a) each shareholder to whom the dividend is paid is deemed to receive from the corporation, at the time the dividend is paid, a TCP gains distribution equal to the lesser of the amount of the dividend and the shareholder's pro rata portion at that time of the mutual fund corporation's TCP gains balance; and

(b) where the dividend is paid to a shareholder who is a non-resident person or a partnership that is not a Canadian partnership,

(i) subparagraph (1)(b)(vii) does not apply to the dividend, to the extent of the TCP gains distribution, and

(ii) the TCP gains distribution is a taxable dividend that, except for the purpose of the definition of “capital gains dividend account” in subsection (6), is not a capital gains dividend.

Application of
subsection (5.1)

(5.2) Subsection (5.1) applies to a dividend paid by a mutual fund corporation in a taxation year only if more than 5% of the dividend is received by or on behalf of shareholders each of whom is a non-resident person or is a partnership that is not a Canadian partnership.

(3) Subsection 131(6) of the Act is amended by adding the following in alphabetical order:

“pro rata
portion”
« *partie
proportion-
nelle* »

“pro rata portion”, of a shareholder at any time, of a mutual fund corporation’s TCP gains balance, in respect of a dividend paid by the mutual fund corporation on a class of shares of its capital stock, means the amount determined by the formula

$$A \times B/C$$

where

A is the mutual fund corporation’s TCP gains balance immediately before that time,

B is the amount received in respect of the dividend by the shareholder, and

C is the total amount of the dividend;

“TCP gains
balance”
« *solde des gains
provenant de
BCI* »

“TCP gains balance”, of a mutual fund corporation at any time, means the amount, if any, by which

(a) the total of

(i) the mutual fund corporation’s capital gains from dispositions, after March 22, 2004 and at or before that time, of taxable Canadian properties, and

(ii) the TCP gains distributions (including those defined in section 132) received by the mutual fund corporation at or before that time

exceeds

(b) the total of

(i) the mutual fund corporation’s capital losses from dispositions, after March 22, 2004 and at or before that time, of taxable Canadian properties, and

(ii) the total of all amounts deemed, in respect of dividends paid by the mutual fund corporation before that time, to be TCP gains distributions received by shareholders from the mutual fund corporation;

“TCP gains
distribution”
« *distribution de
gains provenant
de BCI* »

“TCP gains distribution” means a TCP gains distribution described in subsection (5.1).

(4) Subsections (1) to (3) apply after March 22, 2004.

31. (1) Subsection 132(4) of the Act is amended by adding the following in alphabetical order:

“pro rata portion”
« *partie proportionnelle* »

“pro rata portion”, of a beneficiary, of a mutual fund trust’s TCP gains balance for a taxation year, in respect of an amount designated under subsection 104(21) by the mutual fund trust for the taxation year, means the amount determined by the formula

$$A \times B/C$$

where

- A is the mutual fund trust’s TCP gains balance for the taxation year,
- B is the amount the mutual fund trust has designated under that subsection in respect of the beneficiary for the taxation year, and
- C is the total of all amounts designated under that subsection by the mutual fund trust for the taxation year;

“TCP gains balance”
« *solde des gains provenant de BCI* »

“TCP gains balance”, of a mutual fund trust for a particular taxation year, means the amount, if any, by which

- (a) the total of
 - (i) the mutual fund trust’s capital gains from dispositions, after March 22, 2004 and at or before the end of the particular taxation year, of taxable Canadian properties, and
 - (ii) the TCP gains distributions (including those defined in section 131) received by the mutual fund trust at or before the end of the particular taxation year

exceeds

- (b) the total of
 - (i) the mutual fund trust’s capital losses from dispositions, after March 22, 2004 and at or before the end of the particular taxation year, of taxable Canadian properties, and
 - (ii) the total of all amounts deemed, in respect of amounts designated by the mutual fund trust under subsection 104(21) for taxation years that preceded the particular taxation year, to be TCP gains distributions received by beneficiaries under the mutual fund trust;

“TCP gains distribution”
« *distribution de gains provenant de BCI* »

“TCP gains distribution” means a TCP gains distribution described in subsection (5.1).

(2) Section 132 of the Act is amended by adding the following after subsection (5):

TCP gains distribution

(5.1) If a mutual fund trust designates an amount under subsection 104(21) for a taxation year of the trust in respect of a beneficiary under the trust, for the purposes of this Part and Part XIII,

- (a) the beneficiary is deemed to have received from the mutual fund trust a TCP gains distribution equal to the lesser of
 - (i) twice the amount designated, and
 - (ii) the beneficiary’s pro rata portion of the mutual fund trust’s TCP gains balance for the taxation year; and

(b) where the beneficiary is a non-resident person or a partnership that is not a Canadian partnership,

(i) the amount designated is deemed by subsection 104(21) to be a taxable capital gain of the beneficiary only to the extent that it exceeds one half of the TCP gains distribution, and

(ii) one half of the TCP gains distribution is to be added to the amount otherwise included under subsection 104(13) in computing the income of the beneficiary, and is deemed to be an amount to which paragraph 212(1)(c) applies.

Application of
subsection (5.1)

(5.2) Subsection (5.1) applies to an amount designated under subsection 104(21) by a mutual fund trust for a taxation year only if more than 5% of the total of all amounts each of which is an amount designated under that subsection by the mutual fund trust for the taxation year was designated in respect of beneficiaries under the mutual fund trust each of whom is a non-resident person or is a partnership that is not a Canadian partnership.

(3) Subsections (1) and (2) apply after March 22, 2004.

32. (1) The portion of subsection 135(1) of the Act before paragraph (a) is replaced by the following:

Deduction in
computing
income

135. (1) Notwithstanding anything in this Part, other than subsections (1.1) to (2.1), there may be deducted, in computing the income of a taxpayer for a taxation year, the total of the payments made, pursuant to allocations in proportion to patronage, by the taxpayer

(2) Section 135 of the Act is amended by adding the following after subsection (1):

Limitation where
non-arm's length
customer

(1.1) Subsection (1) applies to a payment made by a taxpayer to a customer with whom the taxpayer does not deal at arm's length only if

(a) the taxpayer is a cooperative corporation described in subsection 136(2) or a credit union; or

(b) the payment is prescribed.

(3) The portion of subsection 135(2) of the Act before paragraph (a) is replaced by the following:

Limitation where
non-member
customer

(2) If a taxpayer has not made allocations in proportion to patronage in respect of all of the taxpayer's customers of the year, at the same rate, with appropriate differences for different types, classes, grades or qualities of goods, products or services, the amount that may be deducted by the taxpayer under subsection (1) is an amount equal to the lesser of

(4) Subsections (1) to (3) apply in respect of payments made by a taxpayer after March 22, 2004, except that subsection 135(1.1) of the Act, as enacted by subsection (2), does not apply to the portion, if any, of a qualifying payment in respect of a taxation year that

(a) can reasonably be regarded as having in commercial terms the nature of any one or more of an incentive payment, a rebate or a sales allowance; and

(b) would have been deductible under the Act in computing the income of the paying corporation for the taxation year if that portion had become payable in the taxation year as an incentive payment, a rebate or a sales allowance.

(5) For the purposes of subsections (4) and (6), an amount paid by a corporation is a qualifying payment in respect of a taxation year if

(a) the taxation year began before March 23, 2004, and the amount is paid pursuant to a resolution that was passed by the corporation's Board of Directors before that date; and

(b) the corporation elects, in writing filed with the Minister of National Revenue on or before the day that is three months after the day on which this Act is assented to, to have this subsection apply to the payment.

(6) If a qualifying payment in respect of a taxation year was not paid within 12 months after the taxation year, but is paid on or before the day that is three months after the day on which this Act is assented to, for the purpose of applying section 135 of the Act and subsection (4) to the taxpayer the amount is deemed to have been paid on March 23, 2004.

(7) If a corporation

(a) before March 23, 2004, recorded in writing its intention to deduct under section 135 of the Act an amount in computing its income for a taxation year the balance-due day for which is before that date,

(b) is liable to pay an amount of tax under Part I of the Act for the taxation year that exceeds the amount to which it would be so liable if the Act were read without reference to subsection 135(1.1), as enacted by subsection (2), and

(c) pays to the Receiver General that excess amount within six months after this Act is assented to,

the corporation is, for the purpose of determining any interest or penalty payable by it under the Act, deemed to have paid that excess amount on its balance-due day for the taxation year.

(8) If a corporation

(a) before March 23, 2004 recorded in writing its intention to deduct under section 135 of the Act an amount in computing its income for a taxation year, and

(b) was required by Part I of the Act to pay before March 23, 2004 a part or instalment of tax that exceeds the amount it would have been so required to pay if the Act were read without reference to subsection 135(1.1), as enacted by subsection (2),

the corporation is not liable to pay interest under subsection 161(2) of the Act, or to pay a penalty under section 163.1 of the Act, in respect of that excess.

33. (1) The definition "qualifying educational program" in subsection 146.02(1) of the Act is replaced by the following:

"qualifying educational program"
« programme de formation admissible »

"qualifying educational program" means a program at a designated educational institution, as defined in subsection 118.6(1), of not less than three consecutive months duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program and that is

(a) of a technical or vocational nature designed to furnish a person with skills for, or improve a person's skills in, an occupation, if the program is at an institution described in subparagraph (a)(ii) of that definition; and

(b) at a post-secondary school level, in any other case.

(2) Subsection (1) applies after 2003.

34. (1) The definition “qualifying educational program” in subsection 146.1(1) of the Act is replaced by the following:

“qualifying
educational
program”
« *programme de
formation
admissible* »

“qualifying educational program” means a program at a post-secondary school level of not less than three consecutive weeks duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program;

(2) Subsection 146.1(1) of the Act is amended by adding the following in alphabetical order:

“post-secondary
school level”
« *niveau
postsecondaire* »

“post-secondary school level” includes a program of courses, at an institution described in subparagraph (a)(ii) of the definition “designated educational institution” in subsection 118.6(1), of a technical or vocational nature designed to furnish a person with skills for, or improve a person’s skills in, an occupation;

(3) Subsections (1) and (2) apply after 2003.

35. (1) The definition “disbursement quota” in subsection 149.1(1) of the Act is replaced by the following:

“disbursement
quota”
« *contingent des
versements* »

“disbursement quota”, for a taxation year of a registered charity, means the amount determined by the formula

$$A + A.1 + B + B.1$$

where

A is 80% of the total of all amounts each of which is the eligible amount of a gift for which the charity issued a receipt described in subsection 110.1(2) or 118.1(2) in its immediately preceding taxation year, other than a gift that is

- (a) an enduring property, or
- (b) received from another registered charity,

A.1 is the amount, if any, by which

- (a) the sum of
 - (i) 80% of the total of all amounts, each of which is the amount of an enduring property of the charity (other than an enduring property described in subparagraph (ii), an enduring property that was received by the charity as a specified gift, or a bequest or an inheritance received by the charity in a taxation year that included any time before 1994) to the extent that it is expended in the year, and
 - (ii) the total of all amounts, each of which is the fair market value, when transferred, of an enduring property (other than an enduring property that was received by the charity as a specified gift) transferred by the charity in the taxation year by way of gift to a qualified donee

exceeds

- (b) the amount, if any, claimed by the charity, that may not exceed the lesser of
 - (i) 3.5% of the amount determined for D, and
 - (ii) the capital gains pool of the charity for the taxation year,

B is

(a) in the case of a private foundation, the total of all amounts each of which is an amount received by it in its immediately preceding taxation year from a registered charity, other than an amount that is a specified gift or an enduring property, or

(b) in the case of a charitable organization or a public foundation, 80% of the total of all amounts each of which is an amount received by it in its immediately preceding taxation year from a registered charity, other than an amount that is a specified gift or an enduring property, and

B.1 is the amount determined by the formula

$$C \times 0.035 [D - (E + F)] / 365$$

where

C is the number of days in the taxation year,

D is

(a) the prescribed amount for the year, in respect of all or a portion of a property (other than a prescribed property) owned by the charity at any time in the 24 months immediately preceding the taxation year that was not used directly in charitable activities or administration, if that amount is greater than \$25,000, and

(b) in any other case, nil,

E is the total of the amount determined for subparagraph (a)(ii) of the description of A.1, and 5/4 of the total of the amounts determined for A and subparagraph (a)(i) of the description of A.1, for the year in respect of the charity, and

F is the amount equal to

(a) in the case of a private foundation, the amount determined for B for the year in respect of the charity in accordance with paragraph (a) of the description of B, or

(b) in the case of a charitable organization or a public foundation, 5/4 of the amount determined for B for the year in respect of the charity in accordance with paragraph (b) of the description of B;

(2) Subsection 149.1(1) of the Act is amended by adding the following in alphabetical order:

“capital gains pool”
« *compte de gains en capital* »

“capital gains pool”, of a registered charity for a taxation year, means the amount by which

(a) the total of all amounts, each of which is the amount of a capital gain of the charity from the disposition of an enduring property after March 22, 2004 and before the end of the taxation year (other than a capital gain from a disposition of a bequest or an inheritance received by the charity in a taxation year that included any time before 1994) that is declared by the charity in an information return under subsection (14) for the taxation year during which the disposition occurred,

exceeds

(b) the total of all amounts, each of which is the amount, determined for a preceding taxation year of the charity that began after March 22, 2004, that is the lesser of the amount determined under

paragraph (a) of the description of A.1 in the definition “disbursement quota” and the amount claimed by the charity under paragraph (b) of that description;

“enduring
property”
« bien durable »

“enduring property” means property of a registered charity that is

(a) a gift received by the charity by way of bequest or inheritance, including a gift deemed by subsection 118.1(5.2) or (5.3),

(b) if the registered charity is a charitable organization, a gift from another registered charity (other than a gift described by paragraph (d) or received from another charity in respect of which more than 50% of the members of the board of directors or trustees do not deal at arm’s length with each member of the board of directors or trustees of the charitable organization) that is subject to a trust or direction to the effect that the property given, or property substituted for the gift,

(i) is to be held by the charitable organization for a period of not more than five years from the date that the gift was received by the charitable organization, and

(ii) is to be expended in its entirety over the period referred to in the trust or direction

(A) to acquire a tangible capital property of the charitable organization to be used directly in charitable activities or administration,

(B) in the course of a program of charitable activities of the charitable organization that could not reasonably be completed before the end of the first taxation year of the charitable organization ending after the taxation year in which the gift was received, or

(C) any combination of the uses described in clauses (A) and (B),

(c) a gift received by the registered charity (referred to in this definition as the “original recipient charity”), other than a gift received from another registered charity, that is subject to a trust or direction to the effect that the property given, or property substituted for the gift, is to be held by the original recipient charity or by another registered charity (referred to in this definition as a “transferee”) for a period of not less than 10 years from the date that the gift was received by the original recipient charity, except that the trust or direction may allow the original recipient charity or the transferee to expend the property before the end of that period to the extent of the amount determined for a taxation year (for the charity or the transferee, as the case may be) by B.1 in the formula in the definition “disbursement quota”, or

(d) a gift received by the registered charity as a transferee from an original recipient charity or another transferee of a property that was, before that gift was so received, an enduring property of the original recipient charity or of the other transferee because of paragraph (a) or (b) or this paragraph, or property substituted for the gift, if, in the case of a property that was an enduring property of an original recipient charity because of paragraph (b), the gift is subject to the same terms and conditions under the trust or direction as applied to the gift to the original recipient charity;

(3) Subsection 149.1(1.1) of the Act is amended by striking out the word “and” at the end of paragraph (a), by adding the word “and” at the end of paragraph (b) and by adding the following after paragraph (b):

(c) a transfer that has, because of paragraph (c) of the description of B in subsection 188(1.1), paragraph 189(6.2)(b) or subsection 189(6.3), reduced the amount of a liability under Part V.

(4) Paragraph 149.1(2)(b) of the Act is replaced by the following:

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year.

(5) Subsection 149.1(4.1) of the Act is replaced by the following:

Revocation of registration of registered charity

(4.1) The Minister may, in the manner described in section 168, revoke the registration

(a) of a registered charity, if the registered charity has made a gift to another registered charity and it can reasonably be considered that one of the main purposes of making the gift was to unduly delay the expenditure of amounts on charitable activities;

(b) of the other charity referred to in paragraph (a), if it can reasonably be considered that, by accepting the gift, it acted in concert with the registered charity to which paragraph (a) applies; and

(c) of a registered charity, if a false statement, within the meaning assigned by subsection 163.2(1), was made in circumstances amounting to culpable conduct, within the meaning assigned by that subsection, in the furnishing of information for the purpose of obtaining registration of the charity.

(6) Subsection 149.1(21) of the Act is replaced by the following:

Definition of "disbursement excess"

(21) For the purpose of subsection (20), "disbursement excess", for a taxation year of a charity, means the amount, if any, by which the total of amounts expended in the year by the charity on charitable activities carried on by it and by way of gifts made by it to qualified donees exceeds its disbursement quota for the year.

Refusal to register

(22) The Minister may, by registered mail, give notice to a person that the application of the person for registration as a registered charity is refused.

Annulment of registration

(23) The Minister may, by registered mail, give notice to a person that the registration of the person as a registered charity is annulled and deemed not to have been so registered, if the person was so registered by the Minister in error or the person has, solely as a result of a change in law, ceased to be a charity.

Receipts issued before annulment

(24) An official receipt referred to in Part XXXV of the *Income Tax Regulations* issued, by a person whose registration has been annulled under subsection (23), before that annulment is, if the receipt would have been valid were the person a registered charity at the time the receipt was issued, deemed to be a valid receipt under that Part.

(7) Subsections (1), (2) and (4) and subsection 149.1(21) of the Act, as enacted by subsection (6), apply to taxation years that begin after March 22, 2004, except that, in the application of subsections (1) and (4) and subsection 149.1(21) of the Act, as enacted by subsection (6), to a taxation year that begins before 2009 of a charitable organization registered by the Minister of National Revenue before March 23, 2004,

(a) the amount claimed by the charitable organization under paragraph (b) of the description of A.1 in the definition "disbursement quota" in subsection 149.1(1) of the Act, as enacted by subsection (1), is deemed to be nil;

(b) paragraph 149.1(2)(b) of the Act, as enacted by subsection (4), is to be read as follows:

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the total of the amounts

determined for A, A.1 and B in the definition “disbursement quota” in subsection (1) for the year in respect of the charity.

(c) subsection 149.1(21) of the Act, as enacted by subsection (6), is to be read as follows:

(21) For the purpose of subsection (20), “disbursement excess” for a taxation year of a charity means the amount, if any, by which

(a) the total of amounts expended in the year by the charity on charitable activities carried on by it or by way of gifts made by it to qualified donees

exceeds

(b) in the case of a charitable foundation, its disbursement quota for the year, and

(c) in the case of a charitable organization, the total of the amounts determined for A, A.1 and B in the definition “disbursement quota” in subsection (1) for the year in respect of the charity.

(8) Subsections (3) and (5) and subsections 149.1(22) to (24) of the Act, as enacted by subsection (6), apply in respect of notices issued by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

36. (1) Subsection 152(4.2) of the Act is replaced by the following:

(4.2) Notwithstanding subsections (4), (4.1) and (5), for the purpose of determining, at any time after the end of the normal reassessment period of a taxpayer who is an individual (other than a trust) or a testamentary trust in respect of a taxation year, the amount of any refund to which the taxpayer is entitled at that time for the year, or a reduction of an amount payable under this Part by the taxpayer for the year, the Minister may, if the taxpayer makes an application for that determination on or before the day that is ten calendar years after the end of that taxation year,

(a) reassess tax, interest or penalties payable under this Part by the taxpayer in respect of that year; and

(b) redetermine the amount, if any, deemed by subsection 120(2) or (2.2), 122.5(3), 122.51(2), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer’s tax payable under this Part for the year or deemed by subsection 122.61(1) to be an overpayment on account of the taxpayer’s liability under this Part for the year.

(2) Subsection (1) applies to applications made after 2004.

37. (1) Subparagraph 164(1)(a)(i) of the Act is replaced by the following:

(i) before mailing the notice of assessment for the year, where the taxpayer is, for any purpose of the definition “refundable investment tax credit” (as defined in subsection 127.1(2)), a qualifying corporation (as defined in that subsection) and claims in its return of income for the year to have paid an amount on account of its tax payable under this Part for the year because of subsection 127.1(1) in respect of its refundable investment tax credit (as defined in subsection 127.1(2)), refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the amount by which the total determined under paragraph (f) of the definition “refundable investment tax credit” in subsection 127.1(2) in respect of the taxpayer for the year exceeds the total determined under paragraph (g) of that definition in respect of the taxpayer for the year,

(2) Paragraph 164(1.5)(a) of the Act is replaced by the following:

(a) if the taxpayer is an individual (other than a trust) or is a testamentary trust and the taxpayer's return of income under this Part for the year was filed on or before the day that is ten calendar years after the end of the taxation year; or

(3) Subsection (1) applies to taxation years that end after March 22, 2004.

(4) Subsection (2) applies in respect of returns filed after 2004.

38. (1) Subsection 168(3) of the Act is replaced by the following:

*Charities
Registration
(Security
Information) Act*

(3) Notwithstanding subsections (1), (2) and (4), if a registered charity is the subject of a certificate that is determined to be reasonable under subsection 7(1) of the *Charities Registration (Security Information) Act*, the registration of the charity is revoked as of the making of that determination.

Objection to
proposal or
designation

(4) A person that is or was registered as a registered charity or is an applicant for registration as a registered charity that objects to a notice under subsection (1) or any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) may, on or before the day that is 90 days after the day on which the notice was mailed, serve on the Minister a written notice of objection in the manner authorized by the Minister, setting out the reasons for the objection and all the relevant facts, and the provisions of subsections 165(1), (1.1) and (3) to (7) and sections 166, 166.1 and 166.2 apply, with any modifications that the circumstances require, as if the notice were a notice of assessment made under section 152.

(2) Subsection (1) applies in respect of notices issued by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

39. (1) Paragraphs 172(3)(a) and (a.1) of the Act are replaced by the following:

(a) refuses to register an applicant for registration as a Canadian amateur athletic association,

(a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,

(2) Paragraphs 172(4)(a) and (a.1) of the Act are replaced by the following:

(a) to register an applicant for registration as a Canadian amateur athletic association,

(3) Subsections (1) and (2) apply in respect of notices issued by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

40. (1) Paragraphs 180(1)(a) and (b) of the Act are replaced by the following:

(a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),

(b) the mailing of notice to a registered Canadian amateur athletic association under subsection 168(1),

(2) Subsection (1) applies in respect of notices issued by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

41. (1) Subparagraph 186(1)(d)(i) of the Act is replaced by the following:

(i) non-capital loss for any of its 10 taxation years immediately preceding or 3 taxation years immediately following the year, and

(2) Subsection (1) applies in respect of losses that arise in taxation years that end after March 22, 2004.

42. (1) The heading to Part V of the Act is replaced by the following:

TAX AND PENALTIES IN RESPECT OF REGISTERED CHARITIES

(2) Subsection (1) is deemed to have come into force on March 23, 2004.

43. (1) Subsections 188(1) and (2) of the Act are replaced by the following:

188. (1) If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the *Charities Registration (Security Information) Act*, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

(a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;

(b) a new taxation year of the charity is deemed to begin immediately after that day; and

(c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

(1.1) A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

$$A - B$$

where

A is the total of all amounts, each of which is

(a) the fair market value of a property of the charity at the end of that taxation year,

(b) the amount of an appropriation (within the meaning assigned by subsection (2)) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or

(c) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A), each of which is

(a) a debt of the charity that is outstanding at the end of that taxation year,

(b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or

(c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any,

Deemed
year-end on
notice of
revocation

Revocation tax

referred to in paragraph (1.2)(c), to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

Winding-up
period

(1.2) In this Part, the winding-up period of a charity is the period, that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the *Charities Registration (Security Information) Act*, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

(a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,

(b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and

(c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

Eligible donee

(1.3) In this Part, an eligible donee in respect of a particular charity is a registered charity

(a) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;

(b) that is not the subject of a suspension under subsection 188.2(1);

(c) that has no unpaid liabilities under this Act or under the *Excise Tax Act*;

(d) that has filed all information returns required by subsection 149.1(14); and

(e) that is not the subject of a certificate under subsection 5(1) of the *Charities Registration (Security Information) Act* or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable.

Shared liability
— revocation tax

(2) A person who, after the time that is 120 days before the end of the taxation year of a charity that is deemed by subsection (1) to have ended, receives property from the charity, is jointly and severally, or solidarily, liable with the charity for the tax payable under subsection (1.1) by the charity for that taxation year for an amount not exceeding the total of all appropriations, each of which is the amount by which the fair market value of such a property at the time it was so received by the person exceeds the consideration given by the person in respect of the property.

Non-application
of revocation tax

(2.1) Subsections (1) and (1.1) do not apply to a charity in respect of a notice of intention to revoke given under any of subsections 149.1(2) to (4.1) and 168(1) if the Minister abandons the intention and so notifies the charity or if

(a) within the one-year period that begins immediately after the taxation year of the charity otherwise deemed by subsection (1) to have ended, the Minister has registered the charity as a charitable organization, private foundation or public foundation; and

(b) the charity has, before the time that the Minister has so registered the charity,

- (i) paid all amounts, each of which is an amount for which the charity is liable under this Act (other than subsection (1.1)) or the *Excise Tax Act* in respect of taxes, penalties and interest, and
- (ii) filed all information returns required by or under this Act to be filed on or before that time.

(2) Section 188 of the Act is amended by adding the following after subsection (3):

Non-application
of subsection (3)

- (3.1) Subsection (3) does not apply to a transfer that is a gift to which subsection 188.1(11) applies.

(3) Subsection (1) applies in respect of notices issued and certificates served by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

(4) Subsection (2) applies in respect of taxation years that begin after March 22, 2004.

44. (1) The Act is amended by adding the following after section 188:

Penalties for
charities —
carrying on
business

188.1 (1) Subject to subsection (2), a registered charity is liable to a penalty under this Part equal to 5% of its gross revenue for a taxation year from any business that it carries on in the taxation year, if the registered charity

- (a) is a private foundation; or
- (b) is not a private foundation and the business is not a related business in relation to the charity.

Increased
penalty for
subsequent
assessment

(2) A registered charity that, less than five years before a particular time, was assessed a liability under subsection (1) or this subsection, for a taxation year, is liable to a penalty under this Part equal to its gross revenue for a subsequent taxation year from any business that, after that assessment and in the subsequent taxation year, it carries on at the particular time if the registered charity

- (a) is a private foundation; or
- (b) is not a private foundation and the business is not a related business in relation to the charity.

Control of
corporation by a
charitable
foundation

(3) If at a particular time a charitable foundation has acquired control (within the meaning of subsection 149.1(12)) of a particular corporation, the foundation is liable to a penalty under this Part for a taxation year equal to

- (a) 5% of the total of all amounts, each of which is a dividend received by the foundation from the particular corporation in the taxation year and at a time when the foundation so controlled the particular corporation, except if the foundation is liable under paragraph (b) for a penalty in respect of the dividend; or
- (b) if the Minister has, less than five years before the particular time, assessed a liability under paragraph (a) or this paragraph for a preceding taxation year of the foundation in respect of a dividend received from any corporation, the total of all amounts, each of which is a dividend received, after the particular time, by the foundation, from the particular corporation, in the taxation year and at a time when the foundation so controlled the particular corporation.

Undue benefits

(4) A registered charity that, at a particular time in a taxation year, confers on a person an undue benefit is liable to a penalty under this Part for the taxation year equal to

- (a) 105% of the amount of the benefit, except if the charity is liable under paragraph (b) for a penalty in respect of the benefit; or
- (b) if the Minister has, less than five years before the particular time, assessed a liability under paragraph (a) or this paragraph for a preceding taxation year of the charity and the undue benefit was conferred after that assessment, 110% of the amount of the benefit.

Meaning of undue benefits	<p>(5) For the purposes of this Part, an undue benefit conferred on a person (referred to in this Part as the “beneficiary”) by a registered charity includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity that is paid, payable, assigned or otherwise made available for the personal benefit of any person who is a proprietor, member, shareholder, trustee or settlor of the charity, who has contributed or otherwise paid into the charity more than 50% of the capital of the charity, or who deals not at arm’s length with such a person or with the charity, as well as any benefit conferred on a beneficiary by another person, at the direction or with the consent of the charity, that would, if it were not conferred on the beneficiary, be an amount in respect of which the charity would have a right, but does not include a disbursement or benefit to the extent that it is</p> <p>(a) an amount that is reasonable consideration or remuneration for property acquired by or services rendered to the charity;</p> <p>(b) a gift made, or a benefit conferred, in the course of a charitable act in the ordinary course of the charitable activities carried on by the charity, unless it can reasonably be considered that the eligibility of the beneficiary for the benefit relates solely to the relationship of the beneficiary to the charity; or</p> <p>(c) a gift to a qualified donee.</p>
Failure to file information returns	<p>(6) Every registered charity that fails to file a return for a taxation year as and when required by subsection 149.1(14) is liable to a penalty equal to \$500.</p>
Incorrect information	<p>(7) Except where subsection (8) or (9) applies, every registered charity that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable for the taxation year to a penalty equal to 5% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).</p>
Increased penalty for subsequent assessment	<p>(8) Except where subsection (9) applies, if the Minister has, less than five years before a particular time, assessed a penalty under subsection (7) or this subsection for a taxation year of a registered charity and, after that assessment and in a subsequent taxation year, the charity issues, at the particular time, a receipt for a gift otherwise than in accordance with this Act and the regulations, the charity is liable for the subsequent taxation year to a penalty equal to 10% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).</p>
False information	<p>(9) If at any time a person makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct (within the meaning assigned by subsection 163.2(1)), is a false statement (within the meaning assigned by subsection 163.2(1)) on a receipt issued by, on behalf of or in the name of another person for the purposes of subsection 110.1(2) or 118.1(2), the person (or, where the person is an officer, employee, official or agent of a registered charity, the registered charity) is liable for their taxation year that includes that time to a penalty equal to 125% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).</p>
Maximum amount	<p>(10) A person who is liable at any time to penalties under both section 163.2 and subsection (9) in respect of the same false statement is liable to pay only the greater of those penalties.</p>

Delay of expenditure	<p>(11) If, in a taxation year, a registered charity has made a gift of property to another registered charity and it may reasonably be considered that one of the main purposes for the making of the gift was to unduly delay the expenditure of amounts on charitable activities, each of those charities is jointly and severally, or solidarily, liable to a penalty under this Act for its respective taxation year equal to 110% of the fair market value of the property.</p>
Notice of suspension with assessment	<p>188.2 (1) The Minister shall, with an assessment referred to in this subsection, give notice by registered mail to a registered charity that the authority of the charity to issue an official receipt referred to in Part XXXV of the <i>Income Tax Regulations</i> is suspended for one year from the day that is seven days after the notice is mailed, if the Minister has assessed the charity for a taxation year for</p> <ul style="list-style-type: none"> (a) a penalty under subsection 188.1(2); (b) a penalty under paragraph 188.1(4)(b) in respect of an undue benefit, other than an undue benefit conferred by the charity by way of a gift; or (c) a penalty under subsection 188.1(9) if the total of all such penalties for the taxation year exceeds \$25,000.
Notice of suspension — general	<p>(2) The Minister may give notice by registered mail to a registered charity that the authority of the charity to issue an official receipt referred to in Part XXXV of the <i>Income Tax Regulations</i> is suspended for one year from the day that is seven days after the notice is mailed</p> <ul style="list-style-type: none"> (a) if the charity contravenes any of sections 230 to 231.5; or (b) if it may reasonably be considered that the charity has acted, in concert with another charity that is the subject of a suspension under this section, to accept a gift or transfer of property on behalf of that other charity.
Effect of suspension	<p>(3) If the Minister has issued a notice to a registered charity under subsection (1) or (2), subject to subsection (4),</p> <ul style="list-style-type: none"> (a) the charity is deemed, in respect of gifts made and property transferred to the charity within the one-year period that begins on the day that is seven days after the notice is mailed, not to be a donee, described in paragraph 110.1(1)(a) or in the definition “total charitable gifts” in subsection 118.1(1), for the purposes of <ul style="list-style-type: none"> (i) subsections 110.1(1) and 118.1(1), (ii) the definitions “qualified donee” and “registered charity” in subsection 248(1), and (iii) Part XXXV of the <i>Income Tax Regulations</i>; and (b) if the charity is, during that period, offered a gift from any person, the charity shall, before accepting the gift, inform that person that <ul style="list-style-type: none"> (i) it has received the notice, (ii) no deduction under subsection 110.1(1) or credit under subsection 118.1(3) may be claimed in respect of a gift made to it in the period, and (iii) a gift made in the period is not a gift to a qualified donee.
Application for postponement	<p>(4) If a notice of objection to a suspension under subsection (1) or (2) has been filed by a registered charity, the charity may file an application to the Tax Court of Canada for a postponement of that portion of the period of suspension that has not elapsed until the time determined by the Court.</p>

Grounds for postponement (5) The Tax Court of Canada may grant an application for postponement only if it would be just and equitable to do so.

(2) Subsection (1) applies to taxation years that begin after March 22, 2004.

45. (1) Subsections 189(7) and (8) of the Act are replaced by the following:

Revoked charity to file returns (6.1) Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

(a) file with the Minister

(i) a return for the taxation year, in prescribed form and containing prescribed information, and

(ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and

(b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and

(c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

Reduction of revocation tax liability (6.2) If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of

(a) the amount, if any, by which

(i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was mailed and ends at the end of the one-year period

exceeds

(ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and

(b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

Reduction of liability for penalties (6.3) If the Minister has assessed a registered charity in respect of the charity's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the charity after the day on which the Minister first assessed that liability and before the particular time to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

(a) the consideration given by the person for the transfer, and

(b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

Minister may assess

(7) Without limiting the authority of the Minister to revoke the registration of a registered charity, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.

Provisions applicable to Part

(8) Subsections 150(2) and (3), sections 152 and 158, subsection 161(11), sections 162 to 167 and Division J of Part I apply in respect of an amount assessed under this Part and of a notice of suspension under subsection 188.2(1) or (2) as if the notice were a notice of assessment made under section 152, with any modifications that the circumstances require including, for greater certainty, that a notice of suspension that is reconsidered or reassessed may be confirmed or vacated, but not varied, except that

(a) section 162 does not apply in respect of a return required to be filed under paragraph (6.1)(a); and

(b) the reference in each of subsections 165(2) and 166.1(3) to the expression “Chief of Appeals in a District Office or a Taxation Centre” is to be read as a reference to the expression “Assistant Commissioner, Appeals Branch”.

Clarification re objections under subsection 168(4)

(8.1) For greater certainty, in applying the provisions referred to in subsection (8), with any modifications that the circumstances require,

(a) a notice of objection referred to in subsection 168(4) does not constitute a notice of objection to a tax assessed under subsection 188(1.1); and

(b) an issue that could have been the subject of a notice of objection referred to in subsection 168(4) may not be appealed to the Tax Court of Canada under subsection 169(1).

Interest

(9) Subsection 161(11) does not apply to a liability of a taxpayer for a taxation year

(a) under subsection 188(1.1) to the extent that the liability is reduced by subsection (6.2), or paid, before the end of the one-year period that begins immediately after the end of the taxation year deemed to have ended by paragraph 188(1)(a); or

(b) under section 188.1 to the extent that the liability is reduced by subsection (6.3), or paid, before the end of the one-year period that begins immediately after the liability was first assessed.

(2) Subsection (1) applies in respect of notices issued by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

46. (1) Subsection 211.1(2) of the Act is replaced by the following:

Taxable Canadian life investment income

(2) For the purposes of this Part, the taxable Canadian life investment income of a life insurer for a taxation year is the amount, if any, by which its Canadian life investment income for the year exceeds the total of its Canadian life investment losses for the ten taxation years immediately preceding the year, to the extent that those losses were not deducted in computing its taxable Canadian life investment income for any preceding taxation year.

(2) Subsection (1) applies in respect of losses that arise in taxation years that end after March 22, 2004.

47. (1) The Act is amended by adding the following after section 218.2:

PART XIII.2

NON-RESIDENT INVESTORS IN CANADIAN MUTUAL FUNDS

Definitions	218.3 (1) The following definitions apply in this Part.
“assessable distribution” « <i>distribution déterminée</i> »	“assessable distribution”, in respect of a Canadian property mutual fund investment, means the portion of any amount that is paid or credited, by the mutual fund that issued the investment, to a non-resident investor who holds the investment, and that is not otherwise subject to tax under Part I or Part XIII.
“Canadian property mutual fund investment” « <i>placement collectif en biens canadiens</i> »	“Canadian property mutual fund investment” means a share of the capital stock of a mutual fund corporation, or a unit of a mutual fund trust, if <ul style="list-style-type: none"> (a) the share or unit is listed on a prescribed stock exchange; and (b) more than 50% of the fair market value of the share or unit is attributable to one or more properties each of which is real property in Canada, a Canadian resource property or a timber resource property.
“Canadian property mutual fund loss” « <i>perte collective en biens canadiens</i> »	“Canadian property mutual fund loss” — of a non-resident investor for a taxation year for which the non-resident investor has filed, on or before their filing-due date for the taxation year, a return of income under this Part in prescribed form, in respect of a Canadian property mutual fund investment — means the lesser of <ul style="list-style-type: none"> (a) the non-resident investor’s loss (for greater certainty as determined under section 40) for the taxation year from the disposition of the Canadian property mutual fund investment, and (b) the total of all assessable distributions that were paid or credited on the Canadian property mutual fund investment after the non-resident investor last acquired the investment and at or before the time of the disposition.
“non-resident investor” « <i>investisseur non résident</i> »	“non-resident investor” means a non-resident person or a partnership other than a Canadian partnership.
“unused Canadian property mutual fund loss” « <i>perte collective en biens canadiens inutilisée</i> »	“unused Canadian property mutual fund loss”, of a non-resident investor for a taxation year, means the portion of the total of the non-resident investor’s Canadian mutual fund property losses for preceding taxation years that has neither reduced under subsection (3) the amount of tax payable, nor increased under subsection (5) the amount of a refund of tax paid, under this Part for any preceding taxation year.
Tax payable	(2) If at any time a person (referred to in this section as the “payer”) pays or credits, to a non-resident investor who holds a Canadian property mutual fund investment, an amount as, on account of, in lieu of payment of or in satisfaction of, an assessable distribution, <ul style="list-style-type: none"> (a) the non-resident investor is deemed for the purposes of this Act, other than section 150, to have disposed at that time, for proceeds equal to the amount of the assessable distribution, of a property <ul style="list-style-type: none"> (i) that is a taxable Canadian property the adjusted cost base of which to the non-resident investor immediately before that time is nil, and

- (ii) that is in all other respects identical to the Canadian property mutual fund investment;
- (b) the non-resident investor is liable to pay an income tax of 15% on the amount of any gain (for greater certainty as determined under section 40) from the disposition; and
- (c) the payer shall, notwithstanding any agreement or law to the contrary,
- (i) deduct or withhold 15% from the amount paid or credited,
 - (ii) immediately remit that amount to the Receiver General on behalf of the non-resident investor on account of the tax, and
 - (iii) submit with the remittance a statement in prescribed form.
- Use of losses (3) If a non-resident investor files, on or before their filing-due date for a taxation year, a return of income under this Part in prescribed form for the taxation year, the non-resident investor is liable, instead of paying tax under paragraph (2)(b) in respect of any amount paid or credited in the taxation year, to pay an income tax of 15% for the taxation year on the amount, if any, by which
- (a) the total of the non-resident investor's gains under subsection (2) for the taxation year exceeds
 - (b) the total of the non-resident investor's Canadian property mutual fund losses for the year and the non-resident investor's unused Canadian property mutual fund loss for the taxation year.
- Deemed tax paid (4) If a non-resident investor files, on or before their filing-due date for a taxation year, a return of income under this Part in prescribed form for the taxation year, any amount that is remitted to the Receiver General in respect of an assessable distribution paid or credited to the non-resident investor in the taxation year is deemed to have been paid on account of the non-resident investor's tax under subsection (3) for the taxation year.
- Refund (5) The amount, if any, by which the total of all amounts paid on account of a non-resident investor's tax under subsection (3) for a taxation year exceeds the non-resident investor's liability for tax under this Part for the taxation year shall be refunded to the non-resident investor.
- Excess loss — carryback (6) If a non-resident investor files, on or before their filing-due date for a taxation year, a return of income under this Part in prescribed form for the taxation year, the Minister shall refund to the non-resident investor an amount equal to the lesser of
- (a) the total amount of tax under this Part paid by the non-resident investor in each of the three preceding taxation years, to the extent that the Minister has not previously refunded that tax, and
 - (b) 15% of the amount, if any, by which
 - (i) the total of the non-resident investor's Canadian property mutual fund losses for the taxation year and the non-resident investor's unused Canadian property mutual fund loss for the taxation year exceeds
 - (ii) the total of all assessable distributions paid or credited to the non-resident investor in the taxation year.
- Ordering (7) In applying subsection (6), amounts of tax are to be considered to be refunded in the order in which they were paid.

Partnership filing-due date	(8) For the purposes of this Part, the taxation year of a partnership is its fiscal period and the filing-due date for the taxation year is to be determined as if the partnership were a corporation.
Partnership — member resident in Canada	<p>(9) If a non-resident investor is a partnership a member of which is resident in Canada, the portion of the tax paid by the partnership under this Part in respect of an assessable distribution paid or credited to the partnership in a particular taxation year of the partnership (or, if the partnership files a return of income for the particular taxation year in accordance with subsection (3), the portion of the tax paid by the partnership under that subsection for the taxation year) that can reasonably be considered to be the member's share is deemed</p> <p>(a) to be an amount paid on account of that member's liability for tax under Part I for that member's taxation year in which the particular taxation year of the partnership ends; and</p> <p>(b) except for the purposes of this subsection, to be neither a tax paid on account of the partnership's tax under this Part nor a tax paid by the partnership.</p>
Provisions applicable	<p>(10) Section 150.1, subsections 161(1), (7) and (11), sections 162 to 167, Division J of Part I, paragraph 214(3)(f), subsections 215(2), (3) and (6) and sections 227 and 227.1 apply to this Part with any modifications that the circumstances require.</p> <p>(2) Subsection (1) applies to distributions paid or credited after 2004.</p> <p>48. (1) Subsections 220(3.1) and (3.2) of the Act are replaced by the following:</p>
Waiver of penalty or interest	<p>(3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day, waive or cancel all or any portion of any penalty or interest otherwise payable under this Act by the taxpayer or partnership in respect of that taxation year or fiscal period, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest.</p>
Late, amended or revoked elections	<p>(3.2) The Minister may extend the time for making an election or grant permission to amend or revoke an election if</p> <p>(a) the election was otherwise required to be made by a taxpayer or by a partnership, under a prescribed provision, on or before a day in a taxation year of the taxpayer (or in the case of a partnership, a fiscal period of the partnership); and</p> <p>(b) the taxpayer or the partnership applies, on or before the day that is ten calendar years after the end of the taxation year or the fiscal period, to the Minister for that extension or permission.</p> <p>(2) Subsection 220(3.1) of the Act, as enacted by subsection (1), applies after 2004 except that if a taxpayer or a partnership has, before 2005, applied to the Minister of National Revenue under subsection 220(3.1) of the Act in respect of a taxation year or fiscal period, that subsection is to be read in respect of that taxation year or fiscal period as follows:</p> <p>(3.1) The Minister may waive or cancel all or any portion of any penalty or interest otherwise payable under this Act by a taxpayer or partnership in respect of a taxation year or fiscal period, as the case may be, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest.</p>

(3) Subsection 220(3.2) of the Act, as enacted by subsection (1), applies in respect of applications made after 2004.

49. (1) The portion of subsection 225.1(1) of the Act before paragraph (a) is replaced by the following:

Collection
restrictions

225.1 (1) If a taxpayer is liable for the payment of an amount assessed under this Act, other than an amount assessed under subsection 152(4.2), 169(3) or 220(3.1), the Minister shall not, until after the collection-commencement day in respect of the amount, do any of the following for the purpose of collecting the amount:

(2) The portion of subsection 225.1(1) of the English version of the Act after paragraph (g) is repealed.

(3) Section 225.1 of the Act is amended by adding the following after subsection (1):

Collection-com
mencement day

(1.1) The collection-commencement day in respect of an amount is

(a) in the case of an amount assessed under subsection 188(1.1) in respect of a notice of intention to revoke given under subsection 168(1) or any of subsections 149.1(2) to (4.1), one year after the day on which the notice was mailed;

(b) in the case of an amount assessed under section 188.1, one year after the day on which the notice of assessment was mailed; and

(c) in any other case, 90 days after the day on which the notice of assessment was mailed.

(4) Subsections (1) to (3) apply in respect of notices issued by the Minister of National Revenue after the day that is 30 days after the day on which this Act is assented to.

50. Section 239 of the Act is amended by adding the following after subsection (4):

Offence and
Punishment
without
reference to
subsection
120(2.2)

(5) In determining whether an offence under this Act, for which a person may on summary conviction or indictment be liable for a fine or imprisonment, has been committed, and in determining the punishment for such an offence, this Act is to be read without reference to subsection 120(2.2).

51. (1) Subsection 241(3.2) of the Act is amended by striking out the word “and” at the end of paragraph (d) and by replacing paragraph (e) with the following:

(e) if the registration of the charity has been revoked or annulled, a copy of the entirety of or any part of any letter sent by or on behalf of the Minister to the charity relating to the grounds for the revocation or annulment;

(f) financial statements required to be filed with an information return referred to in subsection 149.1(14);

(g) a copy of the entirety of or any part of any letter or notice by the Minister to the charity relating to a suspension under section 188.2 or an assessment of tax or penalty under this Act (other than the amount of a liability under subsection 188(1.1)); and

(h) an application by the charity, and information filed in support of the application, for a designation, determination or decision by the Minister under subsection 149.1(6.3), (7), (8) or (13).

(2) Subsection (1) applies to documents that are sent by the Minister of National Revenue, or that are filed or required to be filed with that Minister, after the day on which this Act is assented to.

52. (1) The definition “tax benefit” in subsection 245(1) of the Act is replaced by the following:

“tax benefit”
« *avantage fiscal* »

“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act, and includes a reduction, avoidance or deferral of tax or other amount that would be payable under this Act but for a tax treaty or an increase in a refund of tax or other amount under this Act as a result of a tax treaty;

(2) Subsection 245(4) of the Act is replaced by the following:

Application of
subsection (2)

(4) Subsection (2) applies to a transaction only if it may reasonably be considered that the transaction

(a) would, if this Act were read without reference to this section, result directly or indirectly in a misuse of the provisions of any one or more of

- (i) this Act,
- (ii) the *Income Tax Regulations*,
- (iii) the *Income Tax Application Rules*,
- (iv) a tax treaty, or

(v) any other enactment that is relevant in computing tax or any other amount payable by or refundable to a person under this Act or in determining any amount that is relevant for the purposes of that computation; or

(b) would result directly or indirectly in an abuse having regard to those provisions, other than this section, read as a whole.

(3) The portion of subsection 245(5) of the Act before paragraph (c) is replaced by the following:

Determination of
tax
consequences

(5) Without restricting the generality of subsection (2), and notwithstanding any other enactment,

(a) any deduction, exemption or exclusion in computing income, taxable income, taxable income earned in Canada or tax payable or any part thereof may be allowed or disallowed in whole or in part,

(b) any such deduction, exemption or exclusion, any income, loss or other amount or part thereof may be allocated to any person,

(4) The definition “tax treaty” in subsection 248(1) of the Act is deemed, for the purpose of section 245 of the Act, to have come into force on September 13, 1988.

(5) Subsections (1) to (3) apply with respect to transactions entered into after September 12, 1988.

53. (1) The definition “tax benefit” in subsection 247(1) of the Act is replaced by the following:

“tax benefit”
« *avantage
fiscal* »

“tax benefit” has the meaning assigned by subsection 245(1).

(2) Subsection (1) applies to taxation years and fiscal periods that begin after 1997.

54. (1) Subsection 251.1(1) of the Act is amended by striking out the word “and” at the end of paragraph (e) and by adding the following after paragraph (f):

- (g) a person and a trust, if the person
 - (i) is a majority-interest beneficiary of the trust, or
 - (ii) would, if this subsection were read without reference to this paragraph, be affiliated with a majority-interest beneficiary of the trust; and
- (h) two trusts, if a contributor to one of the trusts is affiliated with a contributor to the other trust and
 - (i) a majority-interest beneficiary of one of the trusts is affiliated with a majority-interest beneficiary of the other trust,
 - (ii) a majority-interest beneficiary of one of the trusts is affiliated with each member of a majority-interest group of beneficiaries of the other trust, or
 - (iii) each member of a majority-interest group of beneficiaries of each of the trusts is affiliated with at least one member of a majority-interest group of beneficiaries of the other trust.

(2) Subsection 251.1(3) of the Act is amended by adding the following in alphabetical order:

“beneficiary”
« *bénéficiaire* »

“beneficiary”, under a trust, includes a person beneficially interested in the trust.

“contributor”
« *cotisant* »

“contributor”, to a trust, means a person who has at any time made a loan or transfer of property, either directly or indirectly, in any manner whatever, to or for the benefit of the trust other than, if the person deals at arm’s length with the trust at that time and is not immediately after that time a majority-interest beneficiary of the trust,

- (a) a loan made at a reasonable rate of interest; or
- (b) a transfer made for fair market value consideration.

“majority-
interest
beneficiary”
« *bénéficiaire
détenant une
participation
majoritaire* »

“majority-interest beneficiary”, of a trust at any time, means a person whose interest as a beneficiary, if any, at that time

- (a) in the income of the trust has, together with the interests as a beneficiary in the income of the trust of all persons with whom the person is affiliated, a fair market value that is greater than 50% of the fair market value of all the interests as a beneficiary in the income of the trust; or
- (b) in the capital of the trust has, together with the interests as a beneficiary in the capital of the trust of all persons with whom the person is affiliated, a fair market value that is greater than 50% of the fair market value of all the interests as a beneficiary in the capital of the trust.

“majority-
interest group of
beneficiaries”
« groupe de
bénéficiaires
détenant une
participation
majoritaire »

“majority-interest group of beneficiaries”, of a trust at any time, means a group of persons each of whom is a beneficiary under the trust at that time such that

(a) if one person held the interests as a beneficiary of all of the members of the group, that person would be a majority-interest beneficiary of the trust; and

(b) if any member of the group were not a member, the test described in paragraph (a) would not be met.

(3) Subsection 251.1(4) of the Act is amended by striking out the word “and” at the end of paragraph (a) and by adding the following after paragraph (b):

(c) notwithstanding subsection 104(1), a reference to a trust does not include a reference to the trustee or other persons who own or control the trust property; and

(d) in determining whether a person is affiliated with a trust,

(i) if the amount of income or capital of the trust that a person may receive as a beneficiary under the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, that person is deemed to have fully exercised, or to have failed to exercise, the power, as the case may be,

(ii) the interest of a person in a trust as a beneficiary is disregarded in determining whether the person deals at arm’s length with the trust if the person would, in the absence of the interest as a beneficiary, be considered to deal at arm’s length with the trust,

(iii) a trust is not a majority interest beneficiary of another trust unless the trust has an interest as a beneficiary in the income or capital, as the case may be, of the other trust, and

(iv) in determining whether a contributor to one trust is affiliated with a contributor to another trust, individuals connected by blood, marriage, common-law partnership or adoption are deemed to be affiliated with one another.

(4) Subsections (1) to (3) apply in determining whether persons are, at any time after March 22, 2004, affiliated, except that paragraph 251.1(4)(d) of the Act, as enacted by subsection (3), is to be read without reference to subparagraph (iv) in determining whether persons are, before September 16, 2004, affiliated.

55. (1) The portion of subsection 256(7) of the Act before paragraph (a) is replaced by the following:

Acquiring
control

(7) For the purposes of subsections 10(10), 13(21.2) and (24), 14(12) and 18(15), sections 18.1 and 37, subsection 40(3.4), the definition “superficial loss” in section 54, section 55, subsections 66(11), (11.4) and (11.5), 66.5(3) and 66.7(10) and (11), section 80, paragraph 80.04(4)(h), subsections 85(1.2), 88(1.1) and (1.2) and 110.1(1.2), sections 111 and 127, subsection 249(4) and this subsection,

(2) Subsection (1) applies in respect of gifts made after March 22, 2004.

2003, c. 15

BUDGET IMPLEMENTATION ACT, 2003

56. (1) The portion of subsection 79(3) of the *Budget Implementation Act, 2003* before paragraph (a) is replaced by the following:

(3) Subsection (1) applies to the 2003 and subsequent taxation years except that for taxation years that begin before 2005

(2) Paragraph 79(3)(a) of the Act is amended by adding the word “and” at the end of subparagraph (iii) and by replacing subparagraphs (iv) and (v) with the following:

(iv) that proportion of \$300,000 that the number of days in the taxation year that are after 2004 is of the number of days in the taxation year; and

(3) The portion of subsection 79(4) of the Act before paragraph (a) is replaced by the following:

(4) Subsection (2) applies to the 2003 and subsequent taxation years except that, for taxation years that begin before 2005, the references in the description of M in the definition “specified partnership income” in subsection 125(7) of the Act, as enacted by subsection (2), to “\$300,000” and “\$822”, are to be read

(4) Subsection 79(4) of the Act is amended by adding the word “and” at the end of paragraph (a), by striking out the word “and” at the end of paragraph (b) and by repealing paragraph (c).

(5) Subsections (1) to (4) are deemed to have come into force on June 19, 2003.

1991, c. 46

BANK ACT

57. Section 462 of the *Bank Act* is amended by adding the following after subsection (2):

(2.1) Despite subsections (1) and (2), a notice, demand, order or other document issued with respect to a customer of a bank constitutes notice to the bank and fixes the bank with knowledge of its contents and, where applicable, is binding on property belonging to the customer and in the possession of the bank or on money owing to the customer by reason of an account in the bank, if it is sent to the branch of the bank referred to in subsection (1) or (2), an office of the bank referred to in paragraph (3)(a) or any other office agreed to by the bank and the Minister of National Revenue and it relates to

(a) the administration of an Act of Parliament by the Minister of National Revenue; or

(b) the administration of an Act of the legislature of a province or legislation made by an aboriginal government, where the Minister or the Minister of National Revenue has entered into a tax collection agreement under an Act of Parliament with the government of the province or the aboriginal government.

58. Section 579 of the Act is amended by adding the following after subsection (2):

(2.1) Despite subsections (1) and (2), a notice, demand, order or other document issued with respect to a customer of an authorized foreign bank constitutes notice to the authorized foreign bank and fixes the authorized foreign bank with knowledge of its contents and, where applicable, is binding on property belonging to the customer and in the possession of the authorized foreign bank or on money owing to the customer by reason of an account in the authorized foreign bank, if it is sent to the branch of the authorized foreign bank referred to in subsection (1) or (2), an office of the authorized foreign bank referred to in paragraph (3)(a) or any other office agreed to by the authorized foreign bank and the Minister of National Revenue and it relates to

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Minister of
National
Revenue

Notices:
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National
Revenue

- (a) the administration of an Act of Parliament by the Minister of National Revenue; or
- (b) the administration of an Act of the legislature of a province or legislation made by an aboriginal government, where the Minister or the Minister of National Revenue has entered into a tax collection agreement under an Act of Parliament with the government of the province or the aboriginal government.

1991, c. 48

COOPERATIVE CREDIT ASSOCIATIONS ACT

59. Section 385.32 of the *Cooperative Credit Associations Act* is amended by adding the following after subsection (2):

Notices:
Minister of
National
Revenue

(2.1) Despite subsections (1) and (2), a notice, demand, order or other document issued with respect to a customer of an association constitutes notice to the association and fixes the association with knowledge of its contents and, where applicable, is binding on property belonging to the customer and in the possession of the association or on money owing to the customer by reason of an account in the association, if it is sent to the branch of the association referred to in subsection (1) or (2), an office of the association referred to in paragraph (3)(a) or any other office agreed to by the association and the Minister of National Revenue and it relates to

- (a) the administration of an Act of Parliament by the Minister of National Revenue; or
- (b) the administration of an Act of the legislature of a province or legislation made by an aboriginal government, where the Minister or the Minister of National Revenue has entered into a tax collection agreement under an Act of Parliament with the government of the province or the aboriginal government.

R.S., c. I-4

INCOME TAX CONVENTIONS INTERPRETATION ACT

60. (1) The *Income Tax Conventions Interpretation Act* is amended by adding the following after section 4:

Application of
section 245 of the
Income Tax Act

4.1 Notwithstanding the provisions of a convention or the Act giving the convention the force of law in Canada, it is hereby declared that the law of Canada is that section 245 of the *Income Tax Act* applies to any benefit provided under the convention.

(2) Subsection (1) applies with respect to transactions entered into after September 12, 1988.

R.S., c. T-2

TAX COURT OF CANADA ACT

61. Section 12 of the *Tax Court of Canada Act* is amended by adding the following after subsection (4):

Postponements
of suspensions to
issue tax receipts

(5) The Court has exclusive original jurisdiction to hear and determine applications referred to in subsection 188.2(4) of the *Income Tax Act* by a registered charity for a postponement of a period of suspension of the authority of the charity to issue official receipts referred to in Part XXXV of the *Income Tax Regulations*.

R.S., c. 51 (4th
Supp.), s. 5

62. Subsection 18(2) of the Act is replaced by the following:

Other appeals
— *Income Tax
Act*

(2) The provisions of sections 18.1 to 18.28 also apply in respect of an appeal, on a taxpayer's election in the taxpayer's notice of appeal or at any later time as may be provided in the rules of the Court, if the only subject-matter of the appeal is

- (a) an amount of interest assessed under the *Income Tax Act*; or
- (b) the validity of a suspension referred to in subsection 188.2(2) of that Act.

2000, c. 30, s.
178; 2002, c. 9, s.
10(4)

63. Subsections 18.29(3) and (4) of the Act are replaced by the following:

Extension of
time and
postponements
of suspensions

(3) The provisions referred to in subsection (1) also apply, with any modifications that the circumstances require, in respect of applications for

- (a) an extension of time under
 - (i) subsection 28(1) of the *Canada Pension Plan*,
 - (ii) section 33.2 of the *Cultural Property Export and Import Act*,
 - (iii) section 97.51 or 97.52 of the *Customs Act*,
 - (iv) subsection 103(1) of the *Employment Insurance Act*,
 - (v) section 197 or 199 of the *Excise Act, 2001*,
 - (vi) section 304 or 305 of the *Excise Tax Act*, or
 - (vii) section 166.2 or 167 of the *Income Tax Act*; and

(b) a postponement of a portion of a period of suspension of authority to issue tax receipts under subsection 188.2(4) of the *Income Tax Act*.

Reasons for
judgment —
extensions of
time and
postponements

(4) In respect of an application for an extension of time under the provisions referred to in paragraph (3)(a) or for a postponement referred in paragraph (3)(b), if either party to the application makes a request to the Court for reasons for its judgment, the Court shall give such reasons but those reasons need not be in writing.

1991, c. 45

TRUST AND LOAN COMPANIES ACT

64. Section 448 of the *Trust and Loan Companies Act* is amended by adding the following after subsection (2):

Notices:
Minister of
National
Revenue

(2.1) Despite subsections (1) and (2), a notice, demand, order or other document issued with respect to a customer of a company constitutes notice to the company and fixes the company with knowledge of its contents and, where applicable, is binding on property belonging to the customer and in the possession of the company or on money owing to the customer by reason of an account in the company, if it is sent to the branch of the company referred to in subsection (1) or (2), an office of the company referred to in paragraph (3)(a) or any other office agreed to by the company and the Minister of National Revenue and it relates to

- (a) the administration of an Act of Parliament by the Minister of National Revenue; or
- (b) the administration of an Act of the legislature of a province or legislation made by an aboriginal government, where the Minister or the Minister of National Revenue has entered into a tax collection agreement under an Act of Parliament with the government of the province or the aboriginal government.

CO-ORDINATING AMENDMENT

Bill C-23

65. If Bill C-23, introduced in the 1st session of the 38th Parliament and entitled the *Department of Human Resources and Skills Development Act*, receives royal assent and section 81 of that Act comes into force on or before the day on which this Act receives royal assent, then, on that day, paragraph (c) of the definition “qualifying educational program” in subsection 118.6(1) of the *Income Tax Act*, as enacted by subsection 25(1) of this Act, is replaced by the following:

(c) an amount that is received by the student in the year under a program referred to in subparagraph 56(1)(r)(ii) or (iii), a program established under the authority of the *Department of Human Resources and Skills Development Act* or a prescribed program;

SCHEDULE
(Section 12)

SCHEDULE 2
(Sections 17, 23 and 29)

LIST OF NAMES OF BANDS, THEIR COUNCILS AND THEIR RESERVES IN QUEBEC

Column 1	Column 2	Column 3
Band	Council of the Band	Reserves in Quebec
Montagnais Essipit	Conseil des Montagnais Essipit	Reserve of Montagnais Essipit