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# Legislative Proposals Relating to Income Tax, Sales Tax and Excise Duties

## Income Tax Act, Income Tax Application Rules and Income Tax Regulations

### Alternative Arguments in Support of Assessments

**1 (1) The portion of subsection 152(9) of the *Income Tax Act* (the “Act”) before paragraph (a) is replaced by the following:**

#### **Alternative basis for assessment**

**(9)** The Minister may advance an alternative basis or argument in support of all or any portion of the total amount determined on assessment to be payable or remittable by a taxpayer under this Act at any time after the normal reassessment period unless, on an appeal under this Act

**(2) Subsection (1) comes into force on the day on which the Act implementing this section receives royal assent except that subsection (1) does not apply in respect of appeals instituted on or before that day.**

### Taxation of Switch Fund Shares

**2 (1) The portion of subsection 130(2) of the Act before paragraph (a) is replaced by the following:**

#### **Application of ss. 131(1) to (3.2), (4.1) and (6)**

**(2)** Where a corporation was an investment corporation throughout a taxation year (other than a corporation that was a mutual fund corporation throughout the year), subsections 131(1) to (3.2), (4.1) and (6) apply in respect of the corporation for the year

**(2) Section 131 of the Act is amended by adding the following after subsection (4):**

#### **Sections not applicable**

**(4.1)** Sections 51, 85, 85.1, 86 and 87 do not apply to a taxpayer that holds a share (in this subsection referred to as the *old share*) of a class of shares, that is recognized under securities legislation as an investment fund, of a mutual fund corporation if the taxpayer exchanges or otherwise disposes of the old share for another share (in this subsection referred to as the *new share*) of a mutual fund corporation, unless

**(a)** if the exchange or disposition occurs in the course of a transaction, event or series of transactions or events described in subsections 86(1) or 87(1),

**(i)** all shares of the class (determined without reference to subsection 248(6)) that includes the old share at the time of the exchange or disposition are exchanged for shares of the class that includes the new share,

**(ii)** the old share and the new share derive their value in the same proportion from the same property or group of properties, and

**(iii)** the transaction, event or series was undertaken solely for *bona fide* purposes and not to cause this paragraph to apply; or

**(b)** if the old share and the new share are shares of the same class (determined without reference to subsection 248(6)) of shares of the same mutual fund corporation,

**(i)** the old share and the new share derive their value in the same proportion from the same property or group of properties held by the corporation that is allocated to that class, and

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(ii) that class is recognized under securities legislation as a single investment fund.

**(3) Section 131 of the Act is amended by adding the following after subsection (8):**

**Election to be a mutual fund corporation**

**(8.01)** A corporation is deemed to be a mutual fund corporation, from the date it was incorporated until the earlier of the date the corporation meets the conditions to qualify as a mutual fund corporation under subsection (8) and December 31, 2017, if the corporation

(a) was incorporated after 2014 and before March 22, 2016;

(b) would have been a mutual fund corporation, on March 22, 2016, if it could have elected on or before that date to be a public corporation under paragraph (b) of the definition *public corporation* in subsection 89(1), had the conditions prescribed in paragraph 4800(1)(b) of the *Income Tax Regulations* been satisfied;

(c) on March 22, 2016, had at least one class of shares that was recognized under securities legislation as an investment fund; and

(d) elects to have this subsection apply in the corporation's return of income for the corporation's first taxation year that ends after March 21, 2016.

**(4) Subsections (1) and (3) come into force or are deemed to have come into force on January 1, 2017.**

**(3) Subsection (2) applies in respect of transactions and events that occur after 2016.**

## Sales of Linked Notes

**3 (1) Section 20 of the Act is amended by adding the following after subsection (14.1):**

**Sales of linked notes**

**(14.2)** For the purposes of subsection (14), the amount determined by the following formula is deemed to be interest that accrued on an assigned or otherwise transferred debt obligation — that is, at any time, described in paragraph 7000(1)(d) of the *Income Tax Regulations* — to which the transferee has become entitled to for a period commencing before the time of the transfer and ending at that particular time that is not payable until after that particular time:

$$A - (B + C)$$

where

**A** is the price for which the debt obligation was assigned or otherwise transferred at the particular time;

**B** is the amount by which the price (converted to Canadian currency using the exchange rate prevailing at the particular time, if the debt obligation is denominated in a foreign currency) for which the debt obligation was issued exceeds the portion, if any, of the principal amount of the debt obligation (converted to Canadian currency using the exchange rate prevailing at the particular time, if the debt obligation is denominated in a foreign currency) that was repaid by the issuer on or before the particular time; and

**C** is the portion of the amount, if any, by which the amount determined for A exceeds the amount determined for B, that is reasonably attributable to the excess, if any, of the present value of all fixed rate interest payments to be received under the particular debt obligation after the particular time over the present value of all fixed rate interest payments that would be received under a debt obligation that

(a) is issued at the particular time by the same issuer,

(b) has the same maturity date as the particular debt obligation,

(c) bears a fair market interest rate determined at the time of its issue, and

(d) otherwise has the same terms and conditions as the particular debt obligation.

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**(2) Subsection (1) applies to transfers occurring after September 2016.**

**4 (1) Paragraph 261(2)(b) of the Act is replaced by the following:**

**(b)** subject to this section, other than this subsection, subsections 20(14.2) and 79(7) and paragraphs 80(2)(k) and 142.7(8)(b), if a particular amount that is relevant in computing those Canadian tax results is expressed in a currency other than Canadian currency, the particular amount is to be converted to an amount expressed in Canadian currency using the relevant spot rate for the day on which the particular amount arose.

**(2) Paragraph 261(5)(c) of the Act is replaced by the following:**

**(c)** subject to paragraph (9)(b), subsection (15), subsections 20(14.2) and 79(7) and paragraphs 80(2)(k) and 142.7(8)(b), if a particular amount that is relevant in computing the taxpayer's Canadian tax results for the particular taxation year is expressed in a currency other than the taxpayer's elected functional currency, the particular amount is to be converted to an amount expressed in the taxpayer's elected functional currency using the relevant spot rate for the day on which the particular amount arose;

**(3) Subparagraph 261(5)(f)(i) of the Act of the Act is replaced by the following:**

**(i)** section 76.1, subsections 20(14.2) and 79(7), paragraph 80(2)(k), subsections 80.01(11), 80.1(8), 93(2.01) to (2.31), 142.4(1) and 142.7(8) and the definition *amortized cost* in subsection 248(1), and subparagraph 231(6)(a)(iv) of the *Income Tax Regulations*, to “Canadian currency” is, in respect of the taxpayer and the particular taxation year, and with such modifications as the context requires, to be read as “the taxpayer's elected functional currency”, and

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on October 1, 2016.**

**5 (1) Subsection 201(1) of the *Income Tax Regulations* (the “Regulations”) is amended by striking out “or” at the end of paragraph (e), by adding “or” at the end of paragraph (f) and by adding the following after paragraph (f):**

**(g)** the portion of the price for which a debt obligation was assigned or otherwise transferred that is deemed by subsection 20(14.2) to be interest that accrued on the debt obligation to which the transferee has become entitled to for a period commencing before the time of the transfer and ending at that particular time that is not payable until after that particular time if the payment is made by a person that is a *financial company* (whether acting as principal or as agent for the transferee) for the purposes of section 211

**(2) Subsection 201(4) of the Regulations is replaced by the following:**

**(4)** A person or partnership that is indebted in a calendar year under a debt obligation in respect of which subsection 12(4) of the Act and paragraph (1)(b) apply with respect to a taxpayer shall make an information return in prescribed form in respect of the amount (other than an amount to which paragraph (1)(g) applies) that would, if the year were a taxation year of the taxpayer, be included as interest in respect of the debt obligation in computing the taxpayer's income for the year.

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on October 1, 2016.**

**6 (1) The definition *security* in subsection 230(1) of the Regulations is amended by adding the following after paragraph (c):**

**(c.1)** a debt obligation that is, at any time, described in paragraph 7000(1)(d);

**(2) Subsection (1) comes into force or is deemed to have come into force on October 1, 2016.**

## Expanding Tax Support for Clean Energy

**7 (1) Paragraph 1104(17)(a) of the Regulations is replaced by the following:**

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(a) the property is

(i) included in Class 43.1 because of its subparagraph (c)(i), or

(ii) described in

(A) any of subparagraphs (d)(viii), (ix), (xi), (xiii), (xiv), (xvi) and (xvii) of Class 43.1, or

(B) paragraph (a) of Class 43.2; and

**(2) Subsection (1) applies to property acquired after March 21, 2016 that has not been used or acquired for use before March 22, 2016.**

**8 (1) Subclauses (d)(i)(A)(I) and (II) of Class 43.1 of Schedule II to the Regulations are replaced by the following:**

(I) active solar heating equipment, including such equipment that consists of above ground solar collectors, solar energy conversion equipment, solar water heaters, thermal energy storage equipment, control equipment and equipment designed to interface solar heating equipment with other heating equipment, or

(II) equipment that is part of a ground source heat pump system that transfers heat to or from the ground or groundwater (but not to or from surface water such as a river, a lake or an ocean) and that, at the time of installation, meets the standards set by the Canadian Standards Association for the design and installation of earth energy systems, including such equipment that consists of piping (including above or below ground piping and the cost of drilling a well, or trenching, for the purpose of installing that piping), energy conversion equipment, thermal energy storage equipment, control equipment and equipment designed to enable the system to interface with other heating or cooling equipment, and

**(2) Subclause (d)(v)(B)(I) of Class 43.1 of Schedule II to the Regulations is replaced by the following:**

(I) control and conditioning equipment,

**(3) The portion of subparagraph (d)(vi) of Class 43.1 of Schedule II to the Regulations before clause (A) is replaced by the following:**

(vi) fixed location photovoltaic equipment that is used by the taxpayer, or a lessee of the taxpayer, primarily for the purpose of generating electrical energy from solar energy if the equipment consists of solar cells or modules and related equipment including inverters, control and conditioning equipment, support structures and transmission equipment, but not including

**(4) Subparagraph (d)(vii) of Class 43.1 of Schedule II to the Regulations is replaced by the following:**

(vii) equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electrical energy solely from geothermal energy, including such equipment that consists of piping (including above or below ground piping and the cost of drilling a well, or trenching, for the purpose of installing that piping), pumps, heat exchangers, steam separators, electrical generating equipment and ancillary equipment used to collect the geothermal heat, but not including buildings, transmission equipment, distribution equipment, property otherwise included in Class 10 and property that would be included in Class 17 if that Class were read without reference to its subparagraph (a.1)(i),

**(5) Subparagraph (d)(xii) of Class 43.1 of Schedule II to the Regulations is replaced by the following:**

(xii) fixed location fuel cell equipment used by the taxpayer, or by a lessee of the taxpayer, that uses hydrogen generated only from ancillary electrolysis equipment (or, if the fuel cell is reversible, the fuel cell itself) using electricity all or substantially all of which is generated by using kinetic energy of flowing water or wave or tidal energy (otherwise than by diverting or impeding the natural flow of the water or by using physical barriers or dam-like structures) or by geothermal, photovoltaic, wind energy conversion, or hydro-electric equipment, of the taxpayer or the lessee, and equipment ancillary to the fuel cell equipment other than buildings or other structures, transmis-

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sion equipment, distribution equipment, auxiliary electrical generating equipment and property otherwise included in Class 10 or 17,

**(6) Subparagraph (d)(xiv) of Class 43.1 of Schedule II to the Regulations is replaced by the following:**

**(xiv)** property that is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electricity using kinetic energy of flowing water or wave or tidal energy (otherwise than by diverting or impeding the natural flow of the water or by using physical barriers or dam-like structures), including support structures, control and conditioning equipment, submerged cables and transmission equipment, but not including buildings, distribution equipment, auxiliary electricity generating equipment, property otherwise included in Class 10 and property that would be included in Class 17 if that class were read without reference to its subparagraph (a.1)(i),

**(7) Paragraph (d) of Class 43.1 of Schedule II to the Regulations is amended by striking out “or” at the end of subparagraph (xv) and “and” at the end of subparagraph (xvi) and by adding the following after subparagraph (xvi):**

**(xvii)** equipment used by the taxpayer, or by a lessee of the taxpayer, for the purpose of charging electric vehicles, including charging stations, transformers, distribution and control panels, circuit breakers, conduits and related wiring, if

**(A)** the equipment is situated

**(I)** on the load side of an electricity meter used for billing purposes by a power utility, or

**(II)** on the generator side of an electricity meter used to measure electricity generated by the taxpayer or the lessee, as the case may be,

**(B)** more than 75 per cent of the electrical equipment capacity is dedicated to charging electric vehicles, and

**(C)** the equipment is

**(I)** an electric vehicle charging station that supplies more than 10 kilowatts of continuous power, or

**(II)** used primarily in connection with one or more electric vehicle charging stations each of which supplies more than 10 kilowatts of continuous power, or

**(xviii)** fixed location energy storage property that

**(A)** is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of storing electrical energy

**(I)** including batteries, compressed air energy storage, flywheels, ancillary equipment (including control and conditioning equipment) and related structures, and

**(II)** not including buildings, pumped hydroelectric storage, hydro electric dams and reservoirs, property used solely for backup electrical energy, batteries used in motor vehicles, fuel cell systems where the hydrogen is produced via steam reformation of methane and property otherwise included in Class 10 or 17, and

**(B)** either

**(I)** if the electrical energy to be stored is used in connection with property of the taxpayer or a lessee of the taxpayer, as the case may be, is described in paragraph (c) or would be described in this paragraph if it were read without reference to this subparagraph, or

**(II)** meets the condition that the efficiency of the electrical energy storage system that includes the property – computed by reference to the quantity of electrical energy supplied to and discharged from the electrical energy storage system – is greater than 50%, and

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**(8) Subsections (1) to (7) apply to property acquired after March 21, 2016 that has not been used or acquired for use before March 22, 2016.**

**9 (1) Paragraphs (a) and (b) of Class 43.2 of Schedule II to the Regulations are replaced by the following:**

**(a)** otherwise than because of paragraph (d) of that Class, if the expression “6,000 BTU” in clause (c)(i)(B) of that Class were read as “4,750 BTU”; or

**(b)** because of paragraph (d) of that Class, if

**(i)** the expression “6,000 BTU” in clause (c)(i)(B) of that Class were read as “4,750 BTU”,

**(ii)** subclauses (d)(xvii)(C)(I) and (II) of that Class were read as follows:

**(I)** an electric vehicle charging station that supplies at least 90 kilowatts of continuous power, or

**(II)** used

**1** primarily in connection with one or more electric vehicle charging stations each of which supplies more than 10 kilowatts of continuous power, and

**2** in connection with one or more electric vehicle charging stations each of which supplies at least 90 kilowatts of continuous power, or

and

**(iii)** clause (d)(xviii)(B) of that Class were read without reference to its subclause (II).

**(2) Subsection (1) applies to property acquired after March 21, 2016 that has not been used or acquired for use before March 22, 2016.**

## Emissions Trading Regimes

**10 (1) The Act is amended by adding the following after section 27:**

### Emissions allowances

**27.1 (1)** Notwithstanding section 10, for the purpose of computing a taxpayer’s income from a business, an emissions allowance shall be valued at the cost at which the taxpayer acquired it.

### Determination of cost of emissions allowances

**(2)** If at any particular time a taxpayer that owns one emissions allowance, or two or more identical emissions allowances (for the purposes of this subsection two or more emissions allowances will be considered identical if they could be used to settle the same emissions obligations), acquires one or more other emissions allowances (in this subsection referred to as *newly acquired emissions allowances*), each of which is identical to each of the previously-acquired emissions allowances, for the purposes of computing, at any subsequent time, the cost of the taxpayer of each of the identical emissions allowances,

**(a)** the taxpayer is deemed to have disposed of each of the previously-acquired emissions allowances immediately before the particular time for proceeds equal to its cost to the taxpayer immediately before the particular time; and

**(b)** the taxpayer is deemed to have acquired each of the identical emissions allowances at the particular time at a cost equal to the amount determined by the formula

$$(A + B)/C$$

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where

- A** is the total cost to the taxpayer immediately before the particular time of the previously-acquired emissions allowances,
- B** is the total cost to the taxpayer (determined without reference to this section) of the newly-acquired emissions allowances, and
- C** is the number of the identical emissions allowances owned by the taxpayer immediately after the particular time.

**Expense restriction**

**(3)** Notwithstanding any other provision of this Act, in computing a taxpayer's income from a business for a taxation year, the total amount deductible in respect of a particular emissions obligation for a taxation year shall not exceed the amount determined by the formula

$$A + B \times C$$

where

- A** is the total cost of emissions allowances either
  - (a)** used by the taxpayer to settle the particular emissions obligation in the year, or
  - (b)** held by the taxpayer at the end of the taxation year that can be used to satisfy the particular emissions obligation in respect of the year;
- B** is the amount determined by the formula

$$D - (E + F)$$

where

- D** is the number of emissions allowances required to satisfy the particular emissions obligation in respect of the taxation year,
  - E** is the number of emissions allowances used by the taxpayer to settle the particular emissions obligation in the year, and
  - F** is the number of emissions allowances held by the taxpayer at the end of the taxation year that can be used to satisfy the particular emissions obligation in respect of the year; and
- C** is the fair market value of an emissions allowance at the end of the taxation year that could be used to satisfy the particular emissions obligation in respect of the year.

**Income inclusion in following year**

**(4)** There shall be included in computing the income of a taxpayer for a taxation year as income from a business the amount deducted in respect of an emissions obligation referred to in subsection (3) for the immediately preceding taxation year to the extent that the emissions obligation was not settled in the immediately preceding taxation year.

**Proceeds of disposition**

**(5)** If a taxpayer surrenders an emissions allowance to settle an emissions obligation, the taxpayer's proceeds from the disposition of the emissions allowance are deemed to be equal to the taxpayer's cost of the emissions allowance.

**Loss restriction event**

**(6)** Notwithstanding subsection (1), each emissions allowance held at the end of the taxpayer's taxation year that ends immediately before the time at which the taxpayer is subject to a loss restriction event is to be valued at the cost at which the taxpayer acquired the property, or its fair market value at the end of the year, whichever is lower, and after that time the cost at which the taxpayer acquired the property is, subject to a subsequent application of this subsection and subsection (2), deemed to be that lower amount.

**(2) Subsection (1) applies in respect of emissions allowances acquired in taxation years that begin after 2016. However, if a taxpayer elects in their return of income for their 2016 or 2017 taxation year, subsec-**

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**tion (1) and sections 11 and 12 apply in respect of emissions allowances acquired by the taxpayer in taxation years that end after 2012.**

**11 (1) The definition *inventory* in subsection 248(1) of the Act is replaced by the following:**

***inventory*** means a description of property the cost or value of which is relevant in computing a taxpayer's income from a business for a taxation year or would have been so relevant if the income from the business had not been computed in accordance with the cash method and includes

- (a) with respect to a farming business, all of the livestock held in the course of carrying on the business, and
- (b) an emissions allowance;(*inventaire*)

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

***emissions allowance*** means an allowance, credit or similar instrument that represents a unit of emissions that can be used to satisfy a requirement under the laws of Canada or a province governing emissions of a regulated substance, such as greenhouse gas emissions; (*droit d'émissions*)

***emissions obligation*** means an obligation to surrender an emissions allowance, or an obligation that can otherwise be satisfied through the use of an emissions allowance, under a law of Canada or a province governing emissions of a regulated substance; (*obligation d'émissions*)

**(3) Subsections (1) and (2) apply in respect of emissions allowances acquired in taxation years that begin after 2016. However, if a taxpayer elects under subsection 10(2), subsection (2) applies in respect of emissions allowances acquired by the taxpayer in taxation years that end after 2012.**

**12 (1) Section 7300 of the Regulations is amended by striking out “or” at the end of paragraph (b), by adding “or” at the end of paragraph (c) and by adding the following after paragraph (c):**

- (d) an emissions allowance issued to the taxpayer under the laws of Canada or a province.

**(2) Subsection (1) applies in respect of emissions allowances acquired in taxation years that begin after 2016. However, if a taxpayer elects under subsection 10(2), subsection (1) applies in respect of emissions allowances acquired by the taxpayer in taxation years that end after 2012.**

## Multiplication of the Small Business Deduction

**13 (1) Subparagraphs 125(1)(a)(i) and (ii) of the Act are replaced by the following:**

(i) the total of all amounts each of which is the amount of income of the corporation for the year from an active business carried on in Canada, other than an amount that is

(A) described in paragraph (a) of the description of A in the definition *specified partnership income* in subsection (7) for the year,

(B) described in subparagraph (a)(i) of the definition *specified corporate income* in subsection (7) for the year, or

(C) paid or payable to the corporation by another corporation with which it is associated, that is deemed by subsection 129(6) to be income for the year from an active business carried on by the corporation in circumstances where the associated corporation is not a Canadian-controlled private corporation or is a Canadian-controlled private corporation that has made an election under subsection 256(2) in respect of its taxation year in which the amount was paid or payable,

(ii) the specified partnership income of the corporation for the year, and

(ii.1) the specified corporate income of the corporation for the year

**(2) Section 125 of the Act is amended by adding the following after subsection (3):**

**Reduction – business limit**

**(3.1)** The business limit for the year of a corporation under subsection (2), (3) or (4) is reduced by the total of all amounts each of which is the portion, if any, of the business limit that the corporation assigns to another corporation under subsection (3.2).

**Assignment**

**(3.2)** For the purpose of this section, a Canadian-controlled private corporation (in this subsection referred to as the *first corporation*) may assign all or any portion of its business limit under subsection (2), (3) or (4) for a taxation year of the first corporation to another Canadian-controlled private corporation (in this subsection referred to as the *second corporation*) for a taxation year of the second corporation if

(a) the second corporation has an amount of income, for its taxation year, referred to in subparagraph (a)(i) of the definition *specified corporate income* in subsection (7) from the provision of services or property directly to the first corporation;

(b) the first corporation's taxation year ends in the second corporation's taxation year;

(c) the amount assigned does not exceed the amount determined by the formula

$$A - B$$

where

**A** is the amount of income referred to in paragraph (a), and

**B** is the portion of the amount described in A that is deductible by the first corporation in respect of the amount of income referred to in clauses (1)(a)(i)(A) or (B) for the year; and

(d) a prescribed form is filed with the Minister by

(i) the first corporation in its return of income for its taxation year, and

(ii) the second corporation in its return of income for its taxation year.

**(3) The description of A in the definition *specified partnership income* in subsection 125(7) is replaced by the following:**

**A** is the total of all amounts each of which is an amount in respect of a partnership of which the corporation was a member, or a designated member, in the year equal to the least of

(a) the total of all amounts each of which is an amount in respect of an active business carried on in Canada by the corporation as a member, or a designated member, of the partnership determined by the formula

$$G - H$$

where

**G** is the total of all amounts each of which is

(i) the corporation's share of the income (determined in accordance with subdivision j of Division B) of the partnership for a fiscal period of the business that ends in the year,

(ii) income of the corporation for the year from the provision (directly or indirectly, in any manner whatever) of services or property to the partnership, or

(iii) an amount included in the corporation's income for the year in respect of the business under any of subsections 34.2(2), (3) and (12), and

**H** is the total of all amounts deducted in computing the corporation's income for the year from the business (other than amounts that were deducted in computing the income of the partnership from the business or the income of the corporation described under subparagraph (ii) of the description of G) or in respect of the business under subsection 34.2(4) or (11),

**(b)** an amount equal to

**(i)** if the corporation was a member of the partnership, the corporation's specified partnership business limit for the year, and

**(ii)** if the corporation was a designated member of the partnership, the total of all amounts assigned to it under subsection (8) for the year and, where no such amounts have been assigned, nil, and

**(c)** nil, if

**(i)** the corporation is a member, or a designated member, of the partnership (including indirectly through one or more other partnerships) in the year, and

**(ii)** the partnership provides services or property to either

**(A)** a private corporation (directly or indirectly in any manner whatever) in the year, if

**(I)** the corporation (or one of its shareholders) or a person who does not deal at arm's length with the corporation (or one of its shareholders) holds a direct or indirect interest in the private corporation, and

**(II)** it is not the case that all or substantially all of the partnership's income for the year from an active business is from the provision of services or property to

1. persons (other than the private corporation) that deal at arm's length with the partnership and each person that holds a direct or indirect interest in the partnership, or

2. partnerships with which the partnership deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest, or

**(B)** a particular partnership (directly or indirectly in any manner whatever) in the year, if:

**(I)** the corporation (or one of its shareholders) does not deal at arm's length with the particular partnership or a person that holds a direct or indirect interest in the particular partnership, and

**(II)** it is not the case that all or substantially all of the partnership's income for the year from an active business is from the provision of services or property to

1. persons that deal at arm's length with the partnership and each person that holds a direct or indirect interest in the partnership, or

2. partnerships (other than the particular partnership) with which the partnership deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest, and

**(4) Paragraph (b) of the definition *specified partnership income* in subsection 125(7) of the Act is replaced by the following:**

**(b)** the total of all amounts each of which is an amount in respect of a partnership of which the corporation was a member, or a designated member, in the year equal to the amount determined by the formula

$$N - O$$

where

**N** is the amount determined in respect of the partnership for the year under paragraph (a) of the description of A, and

**O** is the amount determined in respect of the partnership for the year

**(i)** if the corporation was a member of the partnership, under subparagraph (b)(i) of the description of A, and

**(ii)** if the corporation was a designated member of the partnership, under subparagraph (b)(ii) of the description of A;

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**(5) Subsection 125(7) of the Act is amended by adding the following in alphabetical order:**

**designated member**, of a particular partnership in a taxation year, means a Canadian-controlled private corporation that provides (directly or indirectly, in any manner whatever) services or property to the particular partnership at any time in the corporation's taxation year where, at any time in the year,

(a) the corporation is not a member of the particular partnership; and

(b) either

(i) one of its shareholders holds a direct or indirect interest in the particular partnership, or

(ii) if subparagraph (i) does not apply,

(A) the corporation does not deal at arm's length with a person that holds a direct or indirect interest in the particular partnership, and

(B) it is not the case that all or substantially all of the corporation's income for the year from an active business is from providing services or property to

(I) persons with which the corporation deals at arm's length, or

(II) partnerships (other than the particular partnership) with which the corporation deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest; (*associé désigné*)

**specified corporate income**, of a corporation for a taxation year, means the lesser of

(a) the lesser of

(i) the total of all amounts each of which is income from an active business of the corporation for the year from the provision of services or property to a private corporation (directly or indirectly, in any manner whatever) if

(A) at any time in the year, the corporation (or one of its shareholders) or a person who does not deal at arm's length with the corporation (or one of its shareholders) holds a direct or indirect interest in the private corporation, and

(B) it is not the case that all or substantially all of the corporation's income for the year from an active business is from the provision of services or property to

(I) persons (other than the private corporation) with which the corporation deals at arm's length, or

(II) partnerships with which the corporation deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest, and

(ii) the total of all amounts each of which is the portion, if any, of the business limit of a private corporation described in subparagraph (i) for a taxation year that the private corporation assigns to the corporation under subsection (3.2), and

(b) an amount that the Minister determines to be reasonable in the circumstances; (*revenu de société déterminé*)

**specified partnership business limit**, of a person for a taxation year, at any particular time, means the amount determined by the formula

$$(K/L) \times M - T$$

where

**K** is the total of all amounts each of which is the person's share of the income (determined in accordance with subdivision j of Division B) of a partnership of which the person was a member for a fiscal period ending in the year from an active business carried on in Canada,

**L** is the total of all amounts each of which is the income of the partnership for a fiscal period referred to in paragraph (a) of the description of A in the definition specified partnership income in this subsection from an active business carried on in Canada, and

**M** is the lesser of

(a) the amount of the business limit indicated in subsection (2) for a corporation that is not associated in a taxation year with one or more other Canadian-controlled private corporations, and

(b) the product obtained by the formula

$$(Q/R) \times S$$

where

**Q** is the amount referred to in paragraph (a) of the description of M,

**R** is 365, and

**S** is the total of all amounts each of which is the number of days in a fiscal period of the partnership that ends in the year, and

**T** is the total of all amounts each of which is an amount, if any, that the person assigns under subsection (8); (*plafond des affaires de société de personnes déterminé*)

**(6) Section 125 of the Act is amended by adding the following after subsection (7):**

**Assignment — specified partnership business limit**

**(8)** For the purpose of the definition *specified partnership income* in subsection (7), a person that is a member of a partnership in a taxation year may assign to a designated member of the partnership — for a taxation year of the designated member — all or any portion of the person's specified partnership business limit (determined without reference to this assignment) in respect of the person's taxation year if

(a) the person is described in paragraph (b) of the definition *designated member* in subsection (7) in respect of the designated member in the designated member's taxation year;

(b) the specified partnership business limit of the person is in respect of a fiscal period of the partnership that ends in the designated member's taxation year; and

(c) a prescribed form is filed with the Minister by

(i) the designated member in its return of income for the designated member's taxation year, and

(ii) the person in its return of income for the person's taxation year.

**Anti-avoidance**

**(9)** If a corporation provides services or property to a person or partnership that holds a direct or indirect interest in a particular partnership or corporation and one of the reasons for the provision of the services or property to the person or partnership, instead of to the particular partnership or corporation, is to avoid the application of subparagraph (1)(a)(ii) or (ii.1) in respect of the income from the provision of the services or property, no amount in respect of the corporation's income from the provision of the services or property is to be included in the total amount determined under paragraph (1)(a).

**(7) Subsections (1) to (6) apply to**

(a) taxation years that begin after March 21, 2016; and

(b) a person's taxation year that begins before March 22, 2016 and ends after March 21, 2016 if

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**(i) the person would be entitled to make an assignment to a corporation under subsection 125(3.2) of the Act (as enacted by subsection (2)) or under subsection 125(8) of the Act (as enacted by subsection (6)) if subsections (1) to (6) applied to the person's taxation year that begins before March 22, 2016 and ends after March 21, 2016,**

**(ii) the taxation year of the corporation referred to in subparagraph (i) begins after March 21, 2016, and**

**(iii) the person makes such an assignment for its taxation year that begins before March 22, 2016 and ends after March 21, 2016 and the assignment is to the corporation for its taxation year that begins after March 21, 2016.**

## Avoidance of the Business Limit and Taxable Capital Limit

**14 (1) Subsection 256(2) of the Act is replaced by the following:**

### **Corporations associated through a third corporation**

**(2)** For the purposes of

**(a)** this Act, subject to paragraph (b), two corporations are deemed to be associated with each other at a particular time if

**(i)** they would, but for this subsection, not be associated with each other at the particular time, and

**(ii)** each corporation is associated with, or is deemed by this subsection to be associated with, the same corporation (in this subsection referred to as the *third corporation*) at the particular time; and

**(b)** section 125,

**(i)** if the third corporation is not a Canadian-controlled private corporation at the particular time, the two corporations are deemed not to be associated with each other at the particular time, and

**(ii)** if the third corporation is a Canadian-controlled private corporation that elects in prescribed form to apply this subparagraph in its taxation year that includes the particular time, the two corporations are deemed not to be associated with each other at the particular time and the business limit of the third corporation for its taxation year that includes the particular time is deemed to be nil.

**(2) Subsection (1) applies to taxation years that begin after March 21, 2016.**

## Life Insurance Policies

**15 The portion of subparagraph 53(1)(e)(iii) of the Act after clause (A) is replaced by the following:**

exceeds the total of all amounts each of which is

**(B)** the *adjusted cost basis* (in this subparagraph as defined in subsection 148(9)), immediately before the death, of

**(I)** if the death occurs before March 22, 2016, the policy to the partnership, and

**(II)** if the death occurs after March 21, 2016, a policyholder's interest in the policy, or

**(C)** the amount by which the fair market value of consideration given in respect of a disposition of an interest in the policy exceeds the greater of the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition and the adjusted cost basis to the policyholder of the interest immediately before the disposition, if

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(II) the death occurs after March 21, 2016, and

(III) the disposition was by a policyholder (other than a taxable Canadian corporation) after 1999 and before March 22, 2016,

**16 (1) Subparagraph (d)(iii) of the definition *capital dividend account* in subsection 89(1) of the Act is replaced by the following:**

(iii) the *adjusted cost basis* (in this paragraph as defined in subsection 148(9)), immediately before the death, of

(A) if the death occurs before March 22, 2016, a policy referred to in subparagraph (i) or (ii) to the corporation, and

(B) if the death occurs after March 21, 2016, a policyholder's interest in a policy referred to in subparagraph (i) or (ii),

**(2) Paragraph (d) of the definition *capital dividend account* in subsection 89(1) of the Act is amended by adding "or" at the end of subparagraph (iv) and by adding the following after that subparagraph:**

(v) if the death occurs after March 21, 2016, an interest in the policy was disposed of by a policyholder (other than a taxable Canadian corporation) after 1999 and before March 22, 2016 and subsection 148(7) applied to the disposition, the total of

(A) the amount, if any, by which the fair market value of consideration given in respect of the disposition exceeds the total of

(I) the greater of the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition and the adjusted cost basis to the policyholder of the interest immediately before the disposition, and

(II) the amount by which the paid-up capital of any class of the capital stock of a corporation resulting from the disposition is reduced at the beginning of March 22, 2016 because of the application of paragraphs 148(7)(c) and (f) in respect of the disposition, and

(B) if the paid-up capital in respect of a class of shares of the capital stock of a corporation was increased before March 22, 2016 as described in subparagraph 148(7)(f)(iii) in respect of the disposition, the amount, if any, by which the total reduction in the paid-up capital in respect of that class — not exceeding the amount of that increase — after that increase and before March 22, 2016 (except to the extent that the amount of the reduction was deemed by subsection 84(4) or (4.1) to be a dividend received by a taxpayer) exceeds the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition,

**(3) Subparagraph (b)(iii) of the definition *paid-up capital* in subsection 89(1) of the Act is replaced by the following:**

(iii) where the particular time is after March 31, 1977, an amount equal to the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act except subsections 51(3) and 66.3(2) and (4), sections 84.1 and 84.2, subsections 85(2.1), 85.1(2.1) and (8), 86(2.1), 87(3) and (9), paragraph 128.1(1)(c.3), subsections 128.1(2) and (3), section 135.2, subsections 138(11.7), 139.1(6) and (7), 148(7), 192(4.1) and 194(4.1) and sections 212.1 and 212.3,

**17 Subsection 148(7) of the Act is replaced by the following:**

**Disposition at non-arm's length and similar cases**

(7) If an interest of a policyholder in a life insurance policy is, at any time (referred to in this subsection as the *disposition time*), disposed of (other than a disposition under paragraph (2)(b)) by way of a gift, by distribution from a corporation, by operation of law only, or in any manner whatever to any person with whom the policyholder was not dealing at arm's length,

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**(a)** the policyholder is deemed to become entitled to receive, at the disposition time, proceeds of the disposition equal to the greatest of

**(i)** the value of the interest at the disposition time,

**(ii)** an amount equal to

**(A)** if the disposition time is before March 22, 2016, nil, and

**(B)** if the disposition time is after March 21, 2016, the fair market value at the disposition time of the consideration, if any, given for the interest, and

**(iii)** an amount equal to

**(A)** if the disposition time is before March 22, 2016, nil, and

**(B)** if the disposition time is after March 21, 2016, the adjusted cost basis to the policyholder of the interest immediately before the disposition time;

**(b)** the person that acquires the interest because of the disposition is deemed to acquire it, at the disposition time, at a cost equal to the amount determined under paragraph (a) in respect of the disposition;

**(c)** in computing the paid-up capital in respect of each class of shares of the capital stock of a corporation at any time at or after the disposition time there shall be deducted the amount determined by the formula

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

where

**A** is the increase, if any, as a result of the disposition, in the paid-up capital in respect of all the shares of the capital stock of the corporation,

**B** is the amount determined under paragraph (a) in respect of the disposition, and

**C** is the increase, if any, as a result of the disposition, in the paid-up capital in respect of the class of shares, computed without reference to this paragraph as it applies to the disposition;

**(d)** any contribution of capital to a corporation or partnership in connection with the disposition is deemed, to the extent that it exceeds the amount determined under subparagraph (a)(i) in respect of the disposition, not to result in a contribution of capital for the purpose of applying paragraphs 53(1)(c) and (e) at or after the disposition time;

**(e)** any contributed surplus of a corporation that arose in connection with the disposition is deemed, to the extent that it exceeds the amount determined under subparagraph (a)(i) in respect of the disposition, not to be contributed surplus for the purpose of applying subsection 84(1) at or after the disposition time; and

**(f)** if the disposition time is before March 22, 2016,

**(i)** subparagraphs (ii) and (iii) and paragraphs (c) to (e) apply in respect of the disposition only if the disposition is after 1999 and at least one person whose life was insured under the policy before March 22, 2016 is alive on March 22, 2016,

**(ii)** in applying paragraphs (c) to (e) in respect of the disposition, a reference in those paragraphs to “the disposition time” is to be read as “the beginning of March 22, 2016”, and

**(iii)** if at any time (referred to in this subparagraph as the *conversion time*) before March 22, 2016 the paid-up capital of a class of shares of the capital stock of a corporation was increased, the increase occurred as a result of any action by which the corporation converted any of its contributed surplus into paid-up capital in respect of the class of shares, the contributed surplus arose in connection with the disposition, and subsection 84(1) did not apply to deem the corporation to pay a dividend at the conversion time in respect of the increase, in computing the paid-

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up capital in respect of that class of shares after March 21, 2016, there shall be deducted the amount determined by the formula

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

where

- A** is the increase, if any, as a result of the conversion, in the paid-up capital in respect of all the shares of the capital stock of the corporation, computed without reference to this paragraph as it applies to the disposition,
- B** is the amount determined under subparagraph (a)(i) in respect of the disposition,
- C** is the increase, if any, as a result of the conversion, in the paid-up capital in respect of the class of shares, computed without reference to this paragraph as it applies to the disposition, and
- D** is the total amount of the corporation's contributed surplus that arose in connection with the disposition.

## Debt-Parking to Avoid Foreign Exchange Gains

### **18 (1) Section 39 of the Act is amended by adding the following after subsection (2):**

#### **Deemed gain — parked obligation**

**(2.01)** For the purposes of subsection (2), if a debt obligation owing by a taxpayer (referred to in this subsection and subsections (2.02) and (2.03) as the *debtor*) is denominated in a foreign currency and the debt obligation has become a parked obligation at a particular time, the debtor is deemed at that time to have made the gain, if any, that the debtor otherwise would have made if it had paid an amount at the particular time in satisfaction of the debt obligation equal to

- (a)** if the debt obligation has become a parked obligation at the particular time as a result of its acquisition by the holder of the debt obligation, the amount paid by the holder to acquire the debt obligation; and
- (b)** in any other case, the fair market value of the debt obligation at the particular time.

#### **Parked obligation**

**(2.02)** For the purposes of subsection (2.01), a debt obligation owing by a debtor is a parked obligation at a particular time if

- (a)** both
  - (i)** at that time, the holder of the debt obligation does not deal at arm's length with the debtor or, if the debtor is a corporation, has a significant interest in the debtor, and
  - (ii)** at any previous time, a person who held the debt obligation dealt at arm's length with the debtor and, where the debtor is a corporation, did not have a significant interest in the debtor; and
- (b)** it can reasonably be considered that one of the main purposes of the transaction or event or series of transactions or events that resulted in the debt obligation meeting the condition in subparagraph (a)(i) is to avoid the application of subsection (2).

#### **Interpretation**

**(2.03)** For the purposes of subsections (2.01) and (2.02),

- (a)** paragraph 80(2)(j) applies for the purpose of determining whether two persons are related to each other or whether any person is controlled by any other person; and
- (b)** paragraph 80.01(2)(b) applies for the purpose of determining whether a person has a significant interest in a corporation.

**(2) Subsection (1) is deemed to have come into force on March 22, 2016. However, subsection 39(2.01) of the Act, as enacted by subsection (1), does not apply to a debtor in respect of a debt obligation owing by**

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that debtor at the time that the obligation meets the conditions to become a parked obligation under subsection 39(2.02) of the Act (as enacted by subsection (1)), because of a written agreement entered into before March 22, 2016, if that time is before 2017.

**19 (1) Section 261 of the Act is amended by adding the following after subsection (10):**

**Debt parking – foreign exchange**

**(10.1)** For the purposes of determining a taxpayer's gain under subsection (10), if at a particular time a pre-transition debt of the taxpayer (referred to in this subsection as the *debtor*) that is denominated in a currency other than Canadian currency becomes a parked obligation (within the meaning assigned by subsection 39(2.02)), the debtor is deemed to have made, at that time, a particular payment on account of the principal amount of the debt equal to

(a) if the debt has become a parked obligation at that particular time as a result of its acquisition by the holder of the debt, the portion of the amount paid by the holder to acquire the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time; and

(b) in any other case, the portion of the fair market value of the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time.

**(2) Section 261 of the Act is amended by adding the following after subsection (14):**

**Debt parking – foreign exchange**

**(14.1)** For the purposes of determining a taxpayer's gain under subsection (14), if at a particular time a pre-reversion debt of the taxpayer (referred to in this subsection as the *debtor*) that is denominated in a currency other than the taxpayer's elected functional currency becomes a parked obligation (within the meaning assigned by subsection 39(2.02)), the debtor is deemed to have made, at that time, a particular payment on account of the principal amount of the debt equal to

(a) if the debt has become a parked obligation at that particular time as a result of its acquisition by the holder of the debt, the portion of the amount paid by the holder to acquire the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time; and

(b) in any other case, the portion of the fair market value of the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time.

**(3) Subsections (1) and (2) are deemed to have come into force on March 22, 2016. However, subsections (1) and (2) do not apply to a debtor in respect of a debt owing by that debtor at the time that the debt meets the conditions to become a parked obligation under subsection 39(2.02) of the Act (as enacted by subsection 18(1)), because of a written agreement entered into before March 22, 2016, if that time is before 2017.**

## Valuation for Derivatives

**20 (1) Section 10 of the Act is amended by adding the following after subsection (14):**

**Derivatives**

**(15)** For the purposes of this section, property of a taxpayer that is a swap agreement, a forward purchase or sale agreement, a forward rate agreement, a futures agreement, an option agreement, or any similar agreement is deemed not to be inventory of the taxpayer.

**(2) Subsection (1) applies to agreements entered into after March 21, 2016.**

**21 (1) Subsection 18(1) of the Act is amended by striking out “and” at the end of paragraph (v), by adding “and” at the end of paragraph (w) and by adding the following after that paragraph:**

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**Derivatives — lower of cost and market**

(x) any reduction in a taxation year in the value of a property if

(i) the method used by the taxpayer to value the property at the end of the year for purposes of computing the taxpayer's profit from a business or property is the cost at which the taxpayer acquired it or its fair market value at the end of the year, whichever is lower,

(ii) the property is described in subsection 10(15), and

(iii) the property is not disposed of by the taxpayer in the year.

**(2) Subsection (1) applies to agreements entered into after March 21, 2016.**

## Eligible Capital Property

**22 (1) The portion of paragraph 13(4.3)(d) of the Act before subparagraph (ii) is replaced by the following:**

(d) any amount that would, if this Act were read without reference to this subsection, be included in the cost of a property of the transferor included in Class 14.1 of Schedule II to the *Income Tax Regulations* (including a deemed acquisition under subsection (35)) or included in the proceeds of disposition of a property of the transferee included in that Class (including a deemed disposition under subsection (36)) in respect of the disposition or termination of the former property by the transferor is deemed to be

(i) neither included in the cost nor the proceeds of disposition of property included in that Class,

**(2) Section 13 of the Act is amended by adding the following after subsection (7.4):**

### Deemed capital cost

**(7.41)** Subsection (37) applies in respect of an amount repaid after 2016 as if that amount was repaid immediately before 2017, if

(a) the amount is repaid by the taxpayer under a legal obligation to repay all or part of an amount the taxpayer received or was entitled to receive that was assistance from a government, municipality or other public authority (whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance) in respect of, or for the acquisition of, property the cost of which was an eligible capital expenditure of the taxpayer in respect of the business;

(b) the amount of an eligible capital expenditure of the taxpayer in respect of the business was reduced by paragraph 14(10)(c) because of the assistance referred to in paragraph (a); and

(c) paragraph 20(1)(hh.1) does not apply in respect of the amount repaid.

### Timing of deduction

**(7.42)** No amount may be deducted under paragraph 20(1)(a) in respect of an amount of repaid assistance referred to in subsection (7.41) for any taxation year prior to the taxation year in which the assistance is repaid.

**(3) Subsection 13(34) of the Act is replaced by the following:**

### Goodwill

**(34)** Where a taxpayer carries on a particular business,

(a) there is deemed to be a single goodwill property in respect of the particular business;

(b) if at any time the taxpayer acquires goodwill as part of an acquisition of all or a part of another business that is carried on, after the acquisition, as part of the particular business — or is deemed by subsection (35) to acquire good-

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will in respect of the particular business — the cost of the goodwill is added at that time to the cost of the goodwill property in respect of the particular business;

**(c)** if at any time the taxpayer disposes of goodwill as part of the disposition of part of the particular business, receives proceeds of disposition a portion of which is attributable to goodwill and continues to carry on the particular business or is deemed by subsection (36) to dispose of goodwill in respect of the particular business,

**(i)** the taxpayer is deemed to dispose at that time of a portion of the goodwill property in respect of the particular business having a cost equal to the lesser of the cost of the goodwill property in respect of the particular business otherwise determined and the portion of the proceeds attributable to goodwill, and

**(ii)** the cost of the goodwill property in respect of the particular business is reduced at that time by the amount determined under subparagraph (i); and

**(d)** if paragraph (c) applies to more than one disposition of goodwill at the same time, that paragraph and subsection (38) apply as if each disposition had occurred separately in the order designated by the taxpayer or, if the taxpayer does not designate an order, in the order designated by the Minister.

#### **Outlays not relating to property**

**(35)** If at any time a taxpayer makes or incurs an outlay or expense on account of capital for the purpose of gaining or producing income from a business carried on by the taxpayer, the taxpayer is deemed to acquire at that time goodwill in respect of the business with a cost equal to the amount of the outlay or expense if no portion of the amount is

**(a)** the cost, or any part of the cost, of a property;

**(b)** deductible in computing the taxpayer's income from the business (determined without reference to this subsection);

**(c)** not deductible in computing the taxpayer's income from the business because of any provision of this Act (other than paragraph 18(1)(b)) or the *Income Tax Regulations*;

**(d)** paid or payable to a creditor of the taxpayer as, on account of or in lieu of payment of, any debt, or on account of the redemption, cancellation or purchase of any bond or debenture; or

**(e)** where the taxpayer is a corporation, partnership or trust, paid or payable to a person as a shareholder, partner or beneficiary, as the case may be, of the taxpayer.

#### **No addition to goodwill**

**(35.1)** For greater certainty, no amount paid or payable may be included in Class 14.1 of Schedule II of the *Income Tax Regulations*, if the amount is

**(a)** in consideration for the purchase of shares; or

**(b)** in consideration for the cancellation or assignment of an obligation to pay consideration referred to in paragraph (a).

#### **Receipts not relating to property**

**(36)** If at any time in a taxation year a taxpayer has or may become entitled to receive an amount (in this subsection referred to as the *receipt*) on account of capital in respect of a business that is or was carried on by the taxpayer, the taxpayer is deemed to dispose, at that time, of goodwill in respect of the business for proceeds of disposition equal to the amount by which the receipt exceeds the total of all outlays or expenses that were made or incurred by the taxpayer for the purpose of obtaining the receipt and that were not otherwise deductible in computing the taxpayer's income, if the following conditions are satisfied (determined without reference to this subsection):

**(a)** the receipt is not included in computing the taxpayer's income, or deducted in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts for the taxation year or a preceding taxation year;

- (b) the receipt does not reduce the cost or capital cost of a property or the amount of an outlay or expense; and
- (c) the receipt is not included in computing any gain or loss of the taxpayer from a disposition of a capital property.

**Class 14.1 – transitional rules**

(37) If a taxpayer has incurred an eligible capital expenditure in respect of a business before January 1, 2017,

(a) at the beginning of that day, the total capital cost of all property of the taxpayer included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of the business, each of which was an eligible capital property of the taxpayer immediately before that day or is the goodwill property in respect of the business, is deemed to be the amount determined by the formula

$$4/3 \times (A + B - C)$$

where

- A** is the amount that is the cumulative eligible capital in respect of the business at the beginning of that day,
  - B** is the amount determined for F in the definition *cumulative eligible capital* in subsection 14(5) (as that subsection applied immediately before that day) in respect of the business at the beginning of that day, and
  - C** is the amount by which the total of all amounts determined, in respect of the business, for E or F in the definition *cumulative eligible capital* in subsection 14(5) (as that subsection applied immediately before that day), exceeds the total of all amounts determined for A to D.1 in that definition in respect of the business at the beginning of that day, including any adjustment required by subparagraph (d)(i);
- (b) at the beginning of that day, the capital cost of each property of the taxpayer included in the class in respect of the business, each of which was an eligible capital property of the taxpayer immediately before that day or is the goodwill property in respect of the business, is to be determined as follows:

(i) the taxpayer shall designate the order in which the capital cost of each property that is not the goodwill property is determined and, if the taxpayer does not designate an order, the Minister may designate the order,

(ii) the capital cost of a particular property that is not the goodwill property in respect of the business is deemed to be the lesser of the eligible capital expenditure of the taxpayer in respect of the particular property and the amount by which the total capital cost of the class determined under paragraph (a) exceeds the total of all amounts each of which is an amount deemed by this subparagraph to be the capital cost of a property that is determined in advance of the determination of the capital cost of the particular property, and

(iii) the capital cost of the goodwill property is deemed to be the amount by which the total capital cost of the class exceeds the total of all amounts each of which is an amount deemed by subparagraph (ii) to be the capital cost of a property;

(c) an amount is deemed to have been allowed to the taxpayer in respect of property of the class under regulations made under paragraph 20(1)(a) in computing the taxpayer's income for taxation years ending before that day equal to the amount by which

(i) the total of the total capital cost of the class and the amount determined for C in paragraph (a)

exceeds

(ii) the amount determined for A in paragraph (a);

(d) if no taxation year of the taxpayer ends immediately before that day and the taxpayer would have had a particular amount included, because of paragraph 14(1)(b) (as that paragraph applied immediately before that day), in computing the taxpayer's income from the business for the particular taxation year that includes that day if the particular year had ended immediately before that day,

(i) for the purposes of the formula in paragraph (a),  $\frac{3}{2}$  of the particular amount is to be included in computing the amount for B of the definition *cumulative eligible capital* in subsection 14(5) (as that subsection applied immediately before that day),

(ii) the taxpayer is deemed to dispose of a capital property in respect of the business immediately before that day for proceeds of disposition equal to twice the particular amount,

(iii) if the taxpayer elects in writing to have this subparagraph apply and files that election with the Minister on or before the filing-due date for the particular year, subparagraph (ii) does not apply and an amount equal to the particular amount is to be included in computing the taxpayer's income from the business for the particular year,

(iv) if, on or after that day and in the particular year, the taxpayer acquires a property included in the class in respect of the business, or is deemed by subsection (35) to acquire goodwill in respect of the business, and the taxpayer elects in writing to have this subparagraph apply and files that election with the Minister on or before the filing-due date for the particular year,

(A) for the purposes of subparagraphs (ii) and (iii), the particular amount is to be reduced by the lesser of the particular amount otherwise determined and  $\frac{1}{2}$  of the capital cost of the property or goodwill acquired (determined without reference to clause (B)), and

(B) the capital cost of the property or goodwill acquired, as the case may be, is to be reduced by twice the amount by which the particular amount is reduced under clause (A), and

(v) if, in the particular year and before that day, the taxpayer disposed of a *qualified farm or fishing property* (as defined in subsection 110.6(1)) that was an eligible capital property of the taxpayer, the capital property disposed of under subparagraph (ii), if any, is deemed to be a qualified farm or fishing property to the extent of the lesser of

(A) the proceeds of disposition of the capital property, and

(B) the amount by which the proceeds of disposition of the qualified farm or fishing property exceed its cost.

#### **Class 14.1 – transitional rule**

**(38)** If at any time a taxpayer disposes of a particular property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business and none of subsections 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) and (5), 107(2) and 107.4(3) apply to the disposition, then for the purpose of determining the undepreciated capital cost of the class, the taxpayer is deemed to have acquired a property of the class immediately before that time with a capital cost equal to the least of  $\frac{1}{4}$  of the proceeds of disposition of the particular property,  $\frac{1}{4}$  of the capital cost of the particular property and

(a) if the particular property is not goodwill and is acquired before January 1, 2017 by the taxpayer,  $\frac{1}{4}$  of the capital cost of the particular property;

(b) if the particular property is not goodwill, is acquired on or after that day by the taxpayer and subsection (39) deems an amount to have been allowed under paragraph 20(1)(a) in respect of the taxpayer's acquisition of the particular property, that amount;

(c) if the particular property (other than a property to which paragraph (b) applies) is not goodwill and is acquired on or after that day by the taxpayer — in circumstances under which any of subsections 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) and (5), 107(2) and 107.4(3) apply — from a person or partnership that would have been deemed under this subsection to have acquired a property if none of those subsections had applied, the capital cost of the property that would have been deemed under this subsection to have been acquired by the person or partnership;

(d) if the particular property is goodwill, the amount by which

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

(A)  $\frac{1}{4}$  of the amount determined under subparagraph (37)(b)(iii) in respect of the business,

(B) if goodwill is acquired on or after that day by the taxpayer and subsection (39) deems an amount to have been allowed under paragraph 20(1)(a) in respect of the taxpayer's acquisition of the goodwill, that amount, or

(C) if goodwill is acquired (other than an acquisition in respect of which clause (B) applies) on or after that day by the taxpayer — in circumstances under which any of subsections 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) and (5), 107(2) and 107.4(3) apply — from a person or partnership that would have been deemed under this subsection to have acquired a property if none of those subsections had applied, the capital cost of the property that would have been deemed under this subsection to have been acquired by the person or partnership

exceeds

(ii) the total of all amounts each of which is the capital cost of a property deemed by this subsection to have been acquired by the taxpayer at or before that time in respect of another disposition of goodwill in respect of the business; and

(e) in any other case, nil.

#### **Class 14.1 — transitional rule**

(39) If at any time a taxpayer acquires a particular property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business, the acquisition of the particular property is part of a transaction or series of transactions or events that includes a disposition (in this subsection referred to as the *prior disposition*) at or before that time of the particular property, or a similar property, by the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer and subsection (38) applies in respect of the prior disposition, then for the purpose of determining the undepreciated capital cost of the class, an amount is deemed to have been allowed under paragraph 20(1)(a) to the taxpayer in respect of the particular property in computing the taxpayer's income for taxation years ending before the acquisition equal to the lesser of the capital cost of the property deemed by subsection (38) to be acquired in respect of the prior disposition and 1/4 of the capital cost of the particular property.

#### **Class 14.1 — transitional rule**

(40) For the purposes of subsections (37) to (39) and (41), paragraph 20(1)(hh.1), subsections 40(13) to (16) and paragraph 79(4)(b), *cumulative eligible capital*, *eligible capital expenditure*, *eligible capital property* and *exempt gains balance* have the meanings that would be assigned to those expressions if the Act read as it did immediately before 2017.

#### **Class 14.1 — transitional rules**

(41) If a taxpayer owns property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business at the beginning of 2017, that was an eligible capital property in respect of the business immediately before 2017,

(a) for the purposes of the Act and its regulations (other than this section, section 20 and any regulations made for the purposes of paragraph 20(1)(a)), if the amount determined for A in the definition *cumulative eligible capital* in subsection 14(5) would have been increased immediately before 2017 if the property had been disposed of immediately before that time, the capital cost of the property is deemed to be increased by 4/3 of the amount of that increase;

(b) for purposes of this section, section 20 and any regulations made for the purposes of paragraph 20(1)(a), if the taxpayer is deemed by subsection 14(12) to continue to own eligible capital property in respect of the business and not to have ceased to carry on the business until a time that is after 2016, the taxpayer is deemed to continue to own the property and to continue to carry on the business until the time that is immediately before the first time one of the events that would be described in any of paragraphs 14(12)(c) to (g) (as they read immediately before 2017, if the reference to "eligible capital property" in paragraph 14(12)(d) were read as "eligible capital property or capital property") occurs;

(c) for the purposes of the descriptions of D.1 and K in the definition *undepreciated capital cost* in subsection (21), the taxpayer is deemed not to have paid or received any amounts before 2017 as or on account of an existing or proposed countervailing or anti-dumping duty in respect of depreciable property of the class; and

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(d) subsection (7.1) does not apply to assistance that a taxpayer received or is entitled to receive before 2017 in respect of a property that was an eligible capital property immediately before 2017.

**(4) Subsection (1) applies in respect of dispositions and terminations that occur after 2016.**

**(5) Subsections (2) and (3) come into force or are deemed to have come into force on January 1, 2017.**

**23 (1) Section 14 of the Act is repealed.**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**24 (1) Subsection 18(1) of the Act, as amended by subsection 21(1), is amended by adding “and” at the end of paragraph (x), by striking out “and” at the end of paragraph (w) and by adding the following after paragraph (x):**

**Payment for shares**

(y) an amount referred to in subsection 13(35.1).

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**25 (1) Paragraph 20(1)(b) of the Act is replaced by the following:**

(b) the lesser of

(i) the portion of the amount (that is not otherwise deductible in computing the income of the taxpayer) that is an expense incurred in the year for the incorporation of a corporation, and

(ii) \$3,000 less the total of all amounts each of which is an amount deducted by another taxpayer in respect of the incorporation of the corporation;

**(2) Paragraph 20(1)(hh.1) of the Act is replaced by the following:**

**Repayment of obligation**

(hh.1) 3/4 of any amount repaid by the taxpayer in the year (on or after the time the taxpayer ceases to carry on a business) under a legal obligation to repay all or part of an amount the taxpayer received or was entitled to receive that was assistance from a government, municipality or other public authority (whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance) in respect of, or for the acquisition of, property the cost of which was an eligible capital expenditure of the taxpayer in respect of the business if the amount of the eligible capital expenditure of the taxpayer in respect of the business was reduced by paragraph 14(10)(c) because of the amount of the assistance the taxpayer received or was entitled to receive;

**(3) Subsection 20(4.2) and (4.3) of the Act are replaced by the following:**

**Former eligible capital property**

(4.2) If an amount is deductible under subsection (4) in respect of the disposition of a depreciable property and subsection 13(38) applied to the disposition of the depreciable property, the amount deductible under subsection (4) is equal to 3/4 of the amount that would be deductible without reference to this subsection.

**(4) Subsection 20(16.1) of the Act is amended by deleting 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) in respect of a taxation year in respect of property included in Class 14.1 of Schedule II to the *Income Tax Regulations* unless the taxpayer has ceased to carry on the business to which the class relates.

**(5) Subsection (1) applies in respect of expenses incurred after 2016.**

**(6) Subsections (2) and (4) come into force or are deemed to have come into force on January 1, 2017.**

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**(7) Subsection (3) applies to dispositions that occur after 2016.**

**26 (1) Subsection 24(1) of the Act is repealed.**

**(2) Subsection 24(2) of the Act is replaced by the following:**

**Business carried on by spouse or common-law partner or controlled corporation**

**(2)** If, at any time, an individual ceases to carry on a business and the individual's spouse or common-law partner, or a corporation controlled directly or indirectly in any manner whatever by the individual, carries on the business and acquires all of the property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of the business owned by the individual immediately before that time and that had value at that time, the following rules apply:

**(a)** the individual is deemed to have, immediately before that time, disposed of the property and received proceeds of disposition equal to the lesser of the capital cost and the cost amount to the individual of the property immediately before the disposition;

**(b)** the spouse, common-law partner or corporation, as the case may be, is deemed to have acquired the property at a cost equal to those proceeds; and

**(c)** if the amount that was the capital cost to the individual of the property exceeds the amount determined under paragraph 70(5)(b) to be the cost to the person that acquired the property, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

**(i)** the capital cost to the person of the property is deemed to be the amount that was the capital cost to the individual of the property, and

**(ii)** the excess is deemed to have been allowed to the person in respect of the property under regulations made for the purposes of paragraph 20(1)(a) in computing income for taxation years that ended before the person acquired the property.

**(3) Subsections 24(3) of the Act is repealed.**

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2017.**

**27 (1) Subsection 25(3) of the Act is replaced by the following:**

**Dispositions in the extended fiscal period**

**(3)** If subsection (1) applies in respect of a fiscal period of a business of an individual, for the purpose of computing the individual's income for the fiscal period, section 13 is to be read without reference to subsection 13(8).

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**28 (1) Paragraph 28(1)(d) of the Act is replaced by the following:**

**(d)** the total of all amounts each of which is an amount included in computing the taxpayer's income for the year from the business because of subsection 13(1), 80(13) or 80.3(3) or (5),

**(2) Paragraph 28(1)(g) of the Act is replaced by the following:**

**(g)** the total of all amounts each of which is an amount deducted for the year under paragraph 20(1)(a) or (uu), subsection 20(16), section 30 or subsection 80.3(2) or (4) in respect of the business,

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**29 (1) Subparagraph 39(1)(a)(i) of the Act is repealed.**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

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**30 (1) Paragraph (b) of the description of B in subsection 39.1(2) of the Act is replaced by the following:**

(b) if the entity is a partnership, twice the amount, if any, claimed under subsection (4) by the individual for the year in respect of the entity, and

**(2) Subsection 39.1(5) of the Act is repealed.**

**(3) Subsections (1) and (2) apply in respect of taxation years that begin after 2016.**

**31 (1) Section 40 of the Act is amended by adding the following after subsection (12):**

**Class 14.1 – transitional rules**

(13) Subsection (14) applies in respect of a disposition by a taxpayer of a property that is included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business of the taxpayer if

(a) the property was an eligible capital property of the taxpayer immediately before January 1, 2017;

(b) the amount determined for Q in the definition *cumulative eligible capital* in subsection 14(5) in respect of the business immediately before January 1, 2017 is greater than nil;

(c) the amount determined for B in that definition in respect of the business immediately before January 1, 2017 is nil; and

(d) no amount is included in the taxpayer's income for a taxation year because of paragraph 13(37)(d).

**Class 14.1 – transitional rules**

(14) If this subsection applies in respect of a disposition at any time by a taxpayer of a property, the taxpayer's capital gain from the disposition is to be reduced by such amount as the taxpayer claims, not exceeding the amount by which

(a) 2/3 of the amount determined for Q in the definition *cumulative eligible capital* in subsection 14(5) in respect of the business immediately before 2017

exceeds

(b) the total of all amounts each of which is an amount claimed under this subsection in respect of another disposition at or before that time.

**Class 14.1 – transitional rules**

(15) Subsection (16) applies in respect of a disposition by an individual of a property that is included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business of the individual if

(a) the property was an eligible capital property of the individual immediately before January 1, 2017; and

(b) the individual's exempt gains balance in respect of the business is greater than nil for the taxation year that includes January 1, 2017.

**Class 14.1 – transitional rules**

(16) If this subsection applies in respect of a disposition at any time by an individual of a property, the individual's capital gain from the disposition is to be reduced by such amount as the individual claims, not exceeding the amount by which

(a) twice the amount of the individual's exempt gains balance in respect of the business for the taxation year that includes January 1, 2017

exceeds

(b) the total of

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(i) if paragraph 13(37)(d) applies in respect of the business for the individual's taxation year that includes January 1, 2017, the amount determined for D in paragraph 14(1)(b) for the purposes of paragraph 13(37)(d), and

(ii) the total of all amounts each of which is an amount claimed under this subsection in respect of another disposition at or before that time.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**32 (1) The definition *eligible capital property* in section 54 of the Act is repealed.**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**33 (1) The definition *goodwill amount* in subsection 56.4(1) of the Act is replaced by the following:**

***goodwill amount***, of a taxpayer, is an amount the taxpayer has or may become entitled to receive that would, if this Act were read without reference to this section, be required to be included in the proceeds of disposition of a property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, or is an amount to which subsection 13(37) applies, in respect of a business carried on by the taxpayer through a permanent establishment located in Canada. (*montant pour achalandage*)

**(2) Paragraph 56.4(3)(b) of the Act is replaced by the following:**

(b) the amount would, if this Act were read without reference to this section, be required to be included in the proceeds of disposition of a property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, or is an amount to which subsection 13(37) applies, in respect of the business to which the restrictive covenant relates, and the particular taxpayer elects (or if the amount is payable by the purchaser in respect of a business carried on in Canada by the purchaser, the particular taxpayer and the purchaser jointly elect) in prescribed form to apply this paragraph in respect of the amount; or

**(3) Paragraph 56.4(4)(b) of the Act is replaced by the following:**

(b) if an election has been made under paragraph (3)(b) in respect of the amount, to be considered to be incurred by the purchaser on account of capital for the purpose of determining the cost of the property or for the purposes of subsection 13(35), as the case may be, and not to be an amount paid or payable for all other purposes of the Act; and

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2017.**

**34 (1) Paragraph 69(5)(d) of the Act is replaced by the following:**

(d) subsections 13(21.2), 18(15) and 40(3.4) and (3.6) do not apply in respect of any property disposed of on the winding-up.

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**35 (1) Subsection 70(3.1) of the Act is replaced by the following:**

**Exception**

**(3.1)** For the purposes of this section, *rights or things* do not include an interest in a life insurance policy (other than an annuity contract of a taxpayer where the payment therefor was deductible in computing the taxpayer's income because of paragraph 60(l) or was made in circumstances in which subsection 146(21) applied), land included in the inventory of a business, a Canadian resource property or a foreign resource property.

**(2) Subsection 70(5.1) of the Act is replaced by the following:**

**Transfer or distribution — Class 14.1**

**(5.1)** Notwithstanding subsection (6), if property included in Class 14.1 of Schedule II to the *Income Tax Regulations* of the taxpayer in respect of a business carried on by the taxpayer immediately before the taxpayer's death that is a proper-

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ty to which subsection (5) would otherwise apply is, as a consequence of the death, transferred or distributed (otherwise than by way of a distribution of property by a trust that claimed a deduction under paragraphs 20(1)(a) or (b) in respect of the property or in circumstances to which subsection 24(2) applies) to any person (in this subsection referred to as the beneficiary), the following rules apply:

(a) paragraphs (5)(a) and (b) do not apply in respect of the property;

(b) the taxpayer is deemed to have, immediately before the taxpayer's death, disposed of the property and received proceeds of disposition equal to the lesser of the capital cost and the cost amount to the taxpayer of the property immediately before the death;

(c) the beneficiary is deemed to have acquired the property at the time of the death at a cost equal to those proceeds; and

(d) paragraph (5)(c) applies as if the references to "paragraph (a)" were read as references to "paragraph (5.1)(b)" and the reference to "paragraph (b)" were read as reference to "paragraph (5.1)(c)".

**(3) Subsection 70(6.2) of the Act is replaced by the following:**

**Election**

**(6.2)** Subsection (5.1), (6) or (6.1) does not apply to any property of a deceased taxpayer in respect of which the taxpayer's legal representative elects, in the taxpayer's return of income under this Part (other than a return of income filed under subsection (2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) for the year in which the taxpayer died, to have subsection (5) or (5.4), as the case may be, apply.

**(4) The portion of subsection 70(9.8) of the Act before paragraph (a) is replaced by the following:**

**(9.8)** For the purposes of subsections (9) and 73(3) and paragraph (d) of the definition *qualified farm or fishing property* in subsection 110.6(1), a property of an individual is, at a particular time, deemed to be used by the individual in a farming or fishing business carried on in Canada if, at that particular time, the property is being used, principally in the course of carrying on a farming or fishing business in Canada, by

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2017.**

**36 (1) Paragraph 73(3)(a) of the Act is replaced by the following:**

(a) the property was, before the transfer, land in Canada or depreciable property in Canada of a prescribed class, of the taxpayer;

**(2) Paragraph 73(3.1)(c) of the Act is repealed.**

**(3) Subsection 73(3.1) of the Act is amended by adding "and" at the end of paragraph (e) and by repealing paragraphs (f) and (g) .**

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2017.**

**37 (1) Paragraph 79(4)(b) of the Act is replaced by the following:**

(b) paragraph 20(1)(hh.1) applies, where the cost of the property to the person was an eligible capital expenditure at the time the property was acquired;

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**38 (1) Paragraph 80(2)(c) of the Act is replaced by the following:**

(c) subsections (3) to (5) and (8) to (13) apply in numerical order to the forgiven amount in respect of a commercial obligation;

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**(2) Paragraph 80(2)(f) of the Act is repealed.**

**(3) Subsection 80(7) of the Act is repealed.**

**(4) The portion of subsection 80(9) of the Act before paragraph (a) is replaced by the following:**

**Reductions of adjusted cost bases of capital properties**

**(9)** Where a commercial obligation issued by a debtor is settled at any time and amounts have been designated under subsections (5) and (8) to the maximum extent permitted in respect of the settlement, subject to subsection (18)

**(5) Subsection 80(10) of the Act is replaced by the following:**

**Reduction of adjusted cost bases of certain shares and debts**

**(10)** Where a commercial obligation issued by a debtor is settled at any time in a taxation year and amounts have been designated by the debtor under subsections (5), (8) and (9) to the maximum extent permitted in respect of the settlement, subject to subsection (18) the remaining unapplied portion of that forgiven amount shall be applied (to the extent that it is designated in a prescribed form filed with the debtor's return of income under this Part for the year) to reduce immediately after that time the adjusted cost bases to the debtor of capital properties, owned by the debtor immediately after that time, that are shares of the capital stock of corporations of which the debtor is a specified shareholder at that time and debts issued by corporations of which the debtor is a specified shareholder at that time (other than shares of the capital stock of corporations related to the debtor at that time, debts issued by corporations related to the debtor at that time and excluded properties).

**(6) The portion of subsection 80(11) of the Act before paragraph (a) is replaced by the following:**

**Reduction of adjusted cost bases of certain shares, debts and partnership interests**

**(11)** Where a commercial obligation issued by a debtor is settled at any time in a taxation year and amounts have been designated by the debtor under subsections (5), (8), (9) and (10) to the maximum extent permitted in respect of the settlement, subject to subsection (18) the remaining unapplied portion of that forgiven amount shall be applied (to the extent that it is designated in a prescribed form filed with the debtor's return of income under this Part for the year) to reduce immediately after that time the adjusted cost bases to the debtor of

**(7) The portion of subsection 80(12) of the Act before paragraph (a) is replaced by the following:**

**Capital gain where current year capital loss**

**(12)** Where a commercial obligation issued by a debtor (other than a partnership) is settled at any time in a taxation year and amounts have been designated by the debtor under subsections (5), (8) and (9) to the maximum extent permitted in respect of the settlement,

**(8) The portion of paragraph (a) of the description of D in subsection 80(13) of the Act before subparagraph (i) is replaced by the following:**

**(a)** where the debtor has designated amounts under subsections (5), (8), (9) and (10) to the maximum extent permitted in respect of the settlement, the amount, if any, by which

**(9) Paragraph 80(14.1)(c) of the Act is replaced by the following:**

**(c)** amounts were designated under subsections (5), (8), (9) and (10) by each of those directed persons to the maximum extent permitted in respect of the settlement of each of those notional obligations; and

**(10) Paragraph 80(15)(b) of the Act is replaced by the following:**

**(b)** for the purpose of paragraph (a), the relevant limit in respect of the partnership obligation is the amount that would be included in computing the member's income for the year as a consequence of the application of subsection (13) and section 96 to the settlement of the partnership obligation if the partnership had designated amounts under subsections (5), (8), (9) and (10) to the maximum extent permitted in respect of each obligation settled in that fiscal

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period and if income arising from the application of subsection (13) were from a source of income separate from any other sources of partnership income; and

**(11) Subsections (1) to (10) come into force or are deemed to have come into force on January 1, 2017.**

**39 (1) Paragraphs 85(1)(d) to (d.12) of the Act are repealed.**

**(2) Paragraph 85(1)(e.1) of the Act is replaced by the following:**

**(e.1)** where two or more properties, each of which is a property described in paragraph (e), are disposed of at the same time, paragraph (e) applies as if each property so disposed of had been separately disposed of in the order designated by the taxpayer before the time referred to in subsection (6) for the filing of an election in respect of those properties or, if the taxpayer does not so designate any such order, in the order designated by the Minister;

**(3) The portion of paragraph 85(1)(e.3) of the Act before subparagraph (ii) is replaced by the following:**

**(e.3)** where, under any of paragraphs (c.1) and (e), the amount that the taxpayer and the corporation have agreed on in their election in respect of the property (in this paragraph referred to as *the elected amount*) would be deemed to be an amount that is greater or less than the amount that would be deemed, subject to paragraph (c), to be the elected amount under paragraph (b), the elected amount is deemed to be the greater of

(i) the amount deemed by paragraph (c.1) or (e), as the case may be, to be the elected amount, and

**(4) Paragraph 85(1.1)(e) of the Act is repealed.**

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2017.**

**40 (1) Paragraph 87(2)(f) of the Act is repealed.**

**(2) Paragraph 87(2)(g.3) of the Act is replaced by the following:**

**(g.3)** for the purposes of applying subsections 13(21.2), 18(15) and 40(3.4) to any property that was disposed of by a predecessor corporation before the amalgamation, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**41 (1) Paragraph 88(1)(c.1) of the Act is repealed.**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**42 (1) Subparagraph (c.1)(i) of the definition *capital dividend account* in subsection 89(1) of the Act is replaced by the following:**

(i) 1/2 of the total of all amounts each of which is an amount required by paragraph 14(1)(b) (as it read before 2017) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000,

**(2) Subparagraph (c.2)(i) of the definition *capital dividend account* in subsection 89(1) of the Act is replaced by the following:**

(i) the total of all amounts each of which is an amount required by paragraph 14(1)(b) (as it read before 2017) or subparagraph 13(37)(d)(iii) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after October 17, 2000,

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

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**43 (1) Clause 95(2)(d.1)(ii)(B) of the Act is replaced by the following:**

**(B)** subsections 13(21.2), 18(15) and 40(3.4) in respect of any property that was disposed of, at any time before the merger, by a foreign affiliate predecessor, and

**(2) Subclause 95(2)(e)(v)(A)(II) of the Act is replaced by the following:**

**(II)** subsections 13(21.2), 18(15) and 40(3.4) in respect of any property that was disposed of, at any time before the liquidation and dissolution, by the disposing affiliate, and

**(3) Clause 95(2)(f.11)(ii)(A) of the Act is replaced by the following:**

**(A)** this Act is to be read without reference to subsections 17(1) and 18(4) and section 91, except that, where the foreign affiliate is a member of a partnership, section 91 is to be applied to determine the income or loss of the partnership and for that purpose subsection 96(1) is to be applied to determine the foreign affiliate's share of that income or loss of the partnership,

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2017.**

**44 (1) The portion of subsection 96(1.7) of the Act before the formula is replaced by the following:**

**Gains and losses**

**(1.7)** Notwithstanding subsection (1) or section 38, where in a particular taxation year of a taxpayer, the taxpayer is a member of a partnership with a fiscal period that ends in the particular year, the amount of a taxable capital gain, allowable capital loss or allowable business investment loss of the taxpayer for the particular year determined in respect of the partnership is the amount determined by the formula

**(2) The description of A in subsection 96(1.7) of the Act is replaced by the following:**

**A** is the amount of the taxpayer's taxable capital gain, allowable capital loss or allowable business investment loss, as the case may be, for the particular year otherwise determined under this section in respect of the partnership;

**(3) The portion of subsection 96(3) of the Act before paragraph (a) is replaced by the following:**

**Agreement or election of partnership members**

**(3)** If a taxpayer who was a member of a partnership at any time in a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an agreement, designation or election under or in respect of the application of any of subsections 13(4), (4.2) and (16), section 15.2, subsections 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B), subsections 44(1) and (6), 50(1) and 80(5) and (9) to (11), section 80.04, subsections 86.1(2), 88(3.1), (3.3) and (3.5) and 90(3), the definition *relevant cost base* in subsection 95(4) and subsections 97(2), 139.1(16) and (17) and 249.1(4) and (6) that, if this Act were read without reference to this subsection, would be a valid agreement, designation or election,

**(4) Subsection 96(8) of the Act is amended by adding "and" at the end of paragraph (b), by striking out "and" at the end of paragraph (c) and by repealing paragraph (d).**

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2017.**

**45 (1) The portion of subsection 97(2) of the Act before paragraph (a) is replaced by the following:**

**(2)** Notwithstanding any other provision of this Act other than subsections (3) and 13(21.2), where a taxpayer at any time disposes of any property that is a capital property, Canadian resource property, foreign resource property or inventory of the taxpayer to a partnership that immediately after that time is a Canadian partnership of which the taxpayer is a member, if the taxpayer and all the other members of the partnership jointly so elect in prescribed form within the time referred to in subsection 96(4),

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

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**46 (1) Paragraph 98(3)(b) of the Act is amended by adding “and” at the end of subparagraph (i) and by repealing subparagraph (i.1).**

**(2) Subsection 98(3) of the Act is amended by adding “and” at the end of paragraph (e), by striking out “and” at the end of paragraph (f) and by repealing paragraph (g).**

**(3) Paragraph 98(5)(b) of the Act is amended by adding “and” at the end of subparagraph (i) and by repealing subparagraph (i.1).**

**(4) Subsection 98(5) of the Act is amended by adding “and” at the end of paragraph (f), by striking out “and” at the end of paragraph (g) and by repealing paragraph (h).**

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2017.**

**47 (1) Paragraph 107(2)(b.1) of the Act is amended by adding “and” at the end of subparagraph (i) and by repealing subparagraph (ii).**

**(2) Paragraph 107(2)(f) of the Act is repealed.**

**(3) Paragraph 107(2.001)(c) of the Act is replaced by the following:**

**(c)** the property is capital property used in, or property described in the inventory of, a business carried on by the trust through a permanent establishment (as defined by regulation) in Canada immediately before the time of the distribution.

**(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2017.**

**48 (1) Paragraph 107.4(3)(e) of the Act is repealed.**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**49 (1) Paragraph (d) of the definition *qualified farm or fishing property* in subsection 110.6(1) of the Act is replaced by the following:**

**(d)** a property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, used by a person or partnership referred to in any of subparagraphs (a)(i) to (v), or by a personal trust from which the individual acquired the property, in the course of carrying on a farming or fishing business in Canada; (*bien agricole ou de pêche admissible*)

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**50 (1) Subsection 111(5.2) of the Act is repealed.**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**51 (1) Paragraph 126(4.4)(a) of the Act is replaced by the following:**

**(a)** a disposition or acquisition of property deemed to be made by subsection 10(12) or (13) or 45(1), section 70, 128.1 or 132.2, subsections 138(11.3) or 142.5(2), paragraph 142.6(1)(b) or subsections 142.6(1.1) or (1.2) or 149(10) is not a disposition or acquisition, as the case may be; and

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**52 (1) Subparagraph 128.1(1)(b)(iii) of the Act is replaced by the following:**

**(iii)** property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, in respect of a business carried on by the taxpayer in Canada at the time of disposition, and

**(2) Subparagraph 128.1(4)(b)(ii) of the Act is replaced by the following:**

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(ii) capital property used in, property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of or property described in the inventory of, a business carried on by the taxpayer through a permanent establishment (as defined by regulation) in Canada at the particular time,

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**53 (1) Paragraph 139.1(4)(b) of the Act is replaced by the following:**

(b) no amount paid or payable to a stakeholder in connection with the disposition, alteration or dilution of the stakeholder's ownership rights in the particular corporation may be included in Class 14.1 of Schedule II of the *Income Tax Regulations*;

**(2) The portion of subsection 139.1(18) of the Act before paragraph (a) is replaced by the following:**

**Acquisition of control**

**(18)** For the purposes of subsections 10(10), 13(21.2) and (24) 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) and 88(1.1) and (1.2), sections 111 and 127 and subsections 249(4) and 256(7), control of an insurance corporation (and each corporation controlled by it) is deemed not to be acquired solely because of the acquisition of shares of the capital stock of the insurance corporation, in connection with the demutualization of the insurance corporation, by a particular corporation that at a particular time becomes a holding corporation in connection with the demutualization where, immediately after the particular time,

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**54 (1) Subparagraph 142.7(13)(a)(ii) of the Act is repealed.**

**(2) Paragraph 142.7(13)(c) of the Act is replaced by the following:**

(c) for the purposes of applying subsection 13(21.2), 18(15) and 40(3.4) to any property that was disposed of by the affiliate, after the dissolution or winding-up of the affiliate, the entrant bank is deemed to be the same corporation as, and a continuation of, the affiliate.

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**55 (1) The definition *earned income* in subsection 146(1) of the Act is amended by adding “or” to the end of paragraph (f), deleting the “or” at the end of paragraph (g) and repealing paragraph (h).**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**56 (1) Subsection 149(10) of the Act is amended by adding “and” at the end of paragraph (b), deleting the “and” at the end of paragraph (c) and repealing paragraph (d).**

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**57 (1) Paragraph (a) of the definition *transfer pricing capital adjustment* in subsection 247(1) of the Act is amended by adding “or” at the end of subparagraph (i) and repealing subparagraph (ii).**

**(2) Paragraph (b) of the definition *transfer pricing capital adjustment* in subsection 247(1) of the Act is amended by adding “and” at the end of subparagraph (i) and repealing subparagraph (ii).**

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**58 (1) The definitions *adjustment time*, *cumulative eligible capital*, *eligible capital amount*, *eligible capital expenditure* and *eligible capital property* in subsection 248(1) of the Act are repealed.**

**(2) Paragraph (d) of the definition *cost amount* in subsection 248(1) of the Act is repealed.**

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**(3) The portion of paragraph (b) of the definition *taxable Canadian property* in subsection 248(1) of the Act before subparagraph (i) is replaced by the following:**

**(b)** property used or held by the taxpayer in, property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of, or property described in an inventory of, a business carried on in Canada, other than

**(4) The definition *property* in subsection 248(1) of the Act is amended by striking out “and” at the end of paragraph (c), by adding “and” at the end of paragraph (d) and by adding the following after paragraph (d):**

**(e)** the goodwill of a business, as referred to in subsection 13(34); (*biens*)

**(5) The portion of subsection 248(39) of the Act before paragraph (a) is replaced by the following:**

**Substantive gift**

**(39)** If a taxpayer disposes of a property (in this subsection referred to as the *substantive gift*) that is a capital property of the taxpayer, to a recipient that is a registered party, a registered association or a candidate, as those terms are defined in the *Canada Elections Act*, or that is a qualified donee, subsection (35) would have applied in respect of the substantive gift if it had been the subject of a gift by the taxpayer to a qualified donee, and all or a part of the proceeds of disposition of the substantive gift are (or are substituted, directly or indirectly in any manner whatever, for) property that is the subject of a gift or monetary contribution by the taxpayer to the recipient or any person dealing not at arm's length with the recipient, the following rules apply:

**(6) Subsection 248(39) is amended adding “and” at the end of paragraph (a), deleting “and” at the end of paragraph (b) and repealing paragraph (c).**

**(7) Subsections (1) to (6) come into force or are deemed to have come into force on January 1, 2017.**

**59 (1) Subparagraph 261(7)(d)(i) of the Act is replaced by the following:**

**(i)** is in respect of the taxpayer's undepreciated capital cost of depreciable property of a prescribed class, *cumulative Canadian exploration expense* (as defined in subsection 66.1(6)), *cumulative Canadian development expense* (as defined in subsection 66.2(5)), *cumulative foreign resource expense* in respect of a country other than Canada (as defined in subsection 66.21(1)) or *cumulative Canadian oil and gas property expense* (as defined in subsection 66.4(5)) (each of which is referred to in this paragraph as a *pool amount*), and

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**60 (1) Paragraph 600(b) of the Regulations is replaced by the following:**

**(b)** subsections 13(4), (7.4) and (29), 20(24), 44(1) and (6), 45(2) and (3), 50(1), 53(2.1), 56.4(13), 70(6.2), (9.01), (9.11), (9.21) and (9.31), 72(2), 73(1), 80.1(1), 82(3), 83(2), 104(14), 107(2.001), 143(2), 146.01(7), 146.02(7), 164(6) and (6.1), 184(3), 251.2(6) and 256(9) of the Act;

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**61 (1) Paragraph 808(2)(c) of the Regulations is repealed.**

**(2) Subparagraph 808(2)(l) of the Regulations is amended by adding “or” to the end of subparagraph (ii) and by repealing subparagraph (iii).**

**(3) Subsections (1) and (2) come into force or are deemed to come into force on January 1, 2017.**

**62 (1) Paragraph 1100(1)(a) of the Regulations is amended by adding the following after subparagraph (xii)**

**(xii.1)** of Class 14.1, 5 per cent,

**(2) Subsection 1100(1) of the Regulations is amended by adding the following after paragraph (c):**

**Additional allowances — Class 14.1**

**(c.1)** for a taxation year that ends before 2027, such additional amount as the taxpayer may claim in respect of property of Class 14.1 of Schedule II not exceeding

**(i)** 2% of the particular amount by which the undepreciated capital cost of the class at the beginning of 2017 exceeds the total of all amounts each of which is

**(A)** the amount of a deduction taken under paragraph 20(1)(a) of the Act in respect of the class for a preceding taxation year, and

**(B)** equal to three times the amount of the capital cost of a property deemed by subsection 13(38) of the Act to be acquired by the taxpayer in the year or a preceding year, and

**(ii)** the amount determined by the formula

$$A - B$$

where

**A** is the lesser of

**(A)** \$ 500, and

**(B)** the undepreciated capital cost of the class to the taxpayer as of the end of the year (before making any deduction under paragraph 20(1)(a) of the Act in respect of the class for the year), and

**B** is the total of all amounts deductible for the year under paragraph 20(1)(a) of the Act in respect of the class because of subparagraph (i) or (a)(xii.1);

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**63 (1) Subparagraphs 1219(2)(b)(iv) and (v) of the Regulations are replaced by the following:**

**(iv)** included in the capital cost of property that, but for this section, would be depreciable property (other than property that would be included in Class 14.1 of Schedule II), except as provided by paragraph (1)(b), (d), (e), (f), or (g),

**(v)** included in the capital cost of property that, but for this section, would be property included in Class 14.1 of Schedule II, except as provided by any of paragraphs (1)(a) to (e),

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**64 (1) The description of A in subsection 2411(4) of the Regulations is amended by adding “and” at the end of paragraph (g) and by repealing paragraph (h).**

**(2) The description of B in subsection 2411(4) of the Regulations is amended by adding “and” at the end of paragraph (g) and by repealing paragraph (h).**

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**65 (1) Schedule II of the Regulations is amended by adding the following after Class 14:**

**CLASS 14.1**

(5 per cent)

Property of a taxpayer that, in respect of a business of the taxpayer,

**(a)** is goodwill;

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(b) was eligible capital property of the taxpayer immediately before January 1, 2017 and is owned by the taxpayer at the beginning of that day; or

(c) is acquired after 2016, other than

(i) property that is tangible or corporeal property,

(ii) property that is not acquired for the purpose of gaining or producing income from business,

(iii) property in respect of which any amount is deductible (otherwise than as a result of being included in this class) in computing the taxpayer's income from the business,

(iv) property in respect of which any amount is not deductible in computing the taxpayer's income from the business because of any provision of the Act (other than paragraph 18(1)(b)) or these Regulations,

(v) an interest in a trust,

(vi) an interest in a partnership,

(vii) a share, bond, debenture, mortgage, hypothecary claim, note, bill or other similar property, or

(viii) property that is an interest in, or for civil law a right in, or a right to acquire, a property described in any of subparagraphs (i) to (vii).

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**66 (1) The portion of subsection 20(1) of the *Income Tax Application Rules* before paragraph (a) is replaced by the following:**

**Depreciable property**

**(1)** Where the capital cost to a taxpayer of any depreciable property (other than a property that was, at any time, *eligible capital property* as defined in the amended Act at that time) acquired by the taxpayer before 1972 and owned by the taxpayer without interruption from December 31, 1971 until such time after 1971 as the taxpayer disposed of it is less than the fair market value of the property on valuation day and less than the proceeds of disposition thereof otherwise determined,

**(2) Subsections 20(1.3) to (2) of the *Income Tax Application Rules* are replaced by the following:**

**Transfers before 1972 not at arm's length**

**(1.3)** Without restricting the generality of section 18, where any depreciable property (other than a property that was, at any time, *eligible capital property* as defined in the amended Act at that time) has been transferred before 1972 in circumstances such that subsection 20(4) of the former Act would, if that provision applied to transfers of property made in the 1972 taxation year, apply, paragraph 69(1)(b) of the amended Act does not apply to the transfer and subsection 20(4) of the former Act applies thereto.

**Depreciable property received as dividend in kind**

**(1.4)** The capital cost to a taxpayer, as of any particular time after 1971, of any depreciable property (other than depreciable property referred to in subsection (1.3) or deemed by subparagraph (1)(b)(ii) to have been acquired by the taxpayer before 1972 or a property that was, at any time, *eligible capital property* as defined in the amended Act at that time) acquired by the taxpayer before 1972 as, on account of, in lieu of payment of or in satisfaction of, a dividend payable in kind (other than a stock dividend) in respect of a share owned by the taxpayer of the capital stock of a corporation, is deemed to be the fair market value of that property at the time the property was so received.

**Recapture of capital cost allowances**

**(2)** In determining a taxpayer's income for a taxation year from farming or fishing, subsection 13(1) of the amended Act does not apply in respect of the disposition by the taxpayer of property (other than a property that was, at any time, *eligible capital property* as defined in the amended Act at that time) acquired by the taxpayer before 1972 unless the taxpayer has elected to make a deduction for that or a preceding taxation year, in respect of the capital cost of property

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acquired by the taxpayer before 1972, under regulations made under paragraph 20(1)(a) of that Act other than a regulation providing solely for an allowance for computing income from farming or fishing.

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**67 (1) Subsection 21(1) of the *Income Tax Application Rules* is replaced by the following:**

**Government right**

**21(1)** Where as a result of a disposition occurring after 1971 a taxpayer has or may become entitled to receive an amount (in this section referred to as the *actual amount*) that may reasonably be considered to be consideration received by the taxpayer for the disposition of, or for allowing the expiration of, a government right, in respect of a business carried on by the taxpayer throughout the period beginning January 1, 1972 and ending immediately after the disposition occurred, for the purposes of the amended Act the amount that the taxpayer has or may become entitled to receive is deemed to be the amount, if any, by which the actual amount exceeds the greater of

**(a)** the total of all amounts each of which is an outlay or expenditure made or incurred by the taxpayer as a result of a transaction that occurred before 1972 for the purpose of acquiring the government right, or the taxpayer's original right in respect of the government right, to the extent that the outlay or expenditure was not otherwise deducted in computing the income of the taxpayer for any taxation year and would, if made or incurred by the taxpayer as a result of a transaction that occurred after 1971, be an eligible capital expenditure of the taxpayer; and

**(b)** the fair market value to the taxpayer on December 31, 1971 of the taxpayer's specified right in respect of the government right, if no outlay or expenditure was made or incurred by the taxpayer for the purpose of acquiring the right or, if an outlay or expenditure was made or incurred, if that outlay or expenditure would have been an eligible capital expenditure of the taxpayer if it had been made or incurred as a result of a transaction that occurred after 1971.

**(2) The portion of subsection 21(2.1) of the *Income Tax Application Rules* after paragraph (b) is replaced by the following:**

and an actual amount subsequently becomes payable to the taxpayer as consideration for the disposition by the taxpayer of, or for the taxpayer allowing the expiration of, the particular government right or any other government right acquired by the taxpayer for the purpose of effecting the continuation, without interruption, of rights that are substantially similar to the rights that the taxpayer had under the particular government right, for the purpose of the amended Act, the amount that has so become payable to the taxpayer shall be deemed to be the amount that would, if that person and the taxpayer had at all times been the same person, be determined under subsection (1) to be the amount that would have become so payable to the taxpayer.

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

## Country by Country Reporting

**68 Paragraph 162(10)(a) of the Act is replaced by the following:**

**(a)** knowingly or under circumstances amounting to gross negligence, fails to file an information return as and when required by any of sections 233.1 to 233.4 and 233.8, or

**69 (1) The Act is amended by adding the following after section 233.7:**

**Country-by-country report— Definitions**

**233.8 (1)** The following definitions apply in this section.

***business entity*** means

**(a)** a person (other than an individual that is not a trust) or partnership; and

**(b)** a business that is carried on through a permanent establishment, if a separate financial statement for the business is prepared for financial reporting, regulatory, tax reporting or internal management control purposes. (*entité*)

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**consolidated financial statements** means financial statements in which the assets, liabilities, income, expenses and cash flows of the members of a group are presented as those of a single economic entity. (*états financiers consolidés*)

**constituent entity**, of an MNE group, means

(a) any business entity of the MNE group that

(i) is included in the consolidated financial statements of the MNE group for financial reporting purposes, or

(ii) would be required to be included if equity interests in any of the business entities in the MNE group were traded on a public securities exchange; and

(b) any business entity that is excluded from the MNE group's consolidated financial statements solely because of size or materiality. (*entité constitutive*)

**excluded MNE group** means two or more business entities that meet the conditions in paragraphs (a) and (b) of the definition of **MNE group**, if, with respect to a particular fiscal year of the MNE group, it has a total consolidated group revenue of less than €750 million during the fiscal year immediately preceding the particular fiscal year, as reflected in its consolidated financial statements for the preceding fiscal year. (*groupe d'entreprises multinationales exclu*)

**fiscal year**, of an MNE group, means an annual accounting period with respect to which the ultimate parent entity of the MNE group prepares its financial statements. (*exercice*)

**multinational enterprise group** or **MNE group** means two or more business entities, if

(a) they are either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the business entities were traded on a public securities exchange;

(b) one of the business entities is resident in a particular jurisdiction and

(i) another business entity resides in a different jurisdiction, or

(ii) is subject to tax in a different jurisdiction with respect to a business carried on by it through a business entity — described in paragraph (b) of the definition **business entity** — in that other jurisdiction; and

(c) they are not an excluded MNE group. (*groupe d'entreprises multinationales*)

**permanent establishment** has the meaning assigned by regulation. (*établissement stable*)

**qualifying competent authority agreement** means an agreement that

(a) is between authorized representatives of those jurisdictions that are parties to a listed international agreement, and

(b) requires the automatic exchange of country-by-country reports between the party jurisdictions. (*accord admissible*)

**reporting fiscal year** means a fiscal year, if the financial and operational results of the fiscal year are reflected in the country-by-country report. (*exercice déclarable*)

**surrogate parent entity** means a constituent entity of an MNE group that has been appointed by the MNE group — in substitution for the ultimate parent entity — to file the country-by-country report on behalf of the MNE group, if one or more of the conditions in subparagraph (3)(b)(ii) applies. (*entité mère de substitution*)

**systemic failure** means, with respect to a jurisdiction, that the jurisdiction has a qualifying competent authority agreement in effect with Canada, but

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(a) has suspended automatic exchange (for reasons other than those that are in accordance with the terms of the agreement); or

(b) has persistently failed to automatically provide country-by-country reports in its possession — in respect of MNE groups that have constituent entities in Canada — to Canada. (*défaillance systémique*)

**ultimate parent entity** means a constituent entity of an MNE group that meets the following conditions:

(a) the constituent entity holds directly or indirectly a sufficient interest in one or more constituent entities of the MNE group so that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of residence; and

(b) no other constituent entity of the MNE group holds, directly or indirectly, an interest in it that is described in paragraph (a). (*entité mère ultime*)

#### **Determination of residence — ultimate parent entity**

(2) For the purposes of this section, if an ultimate parent entity is a partnership, it is deemed to be resident

(a) if it is, under the laws of another jurisdiction, resident in that other jurisdiction for tax purposes, in that other jurisdiction; and

(b) in any other case, in the jurisdiction under the laws of which it was organized.

#### **Filing obligations**

(3) A report in prescribed form (this report, along with each substantially similar report required to be filed in a jurisdiction other than Canada, collectively referred to in this section as a *country-by-country report*), in respect of a reporting fiscal year of an MNE group, shall be filed in prescribed manner with the Minister on or before the date specified in subsection (6) by

(a) the ultimate parent entity of the MNE group, if it is resident in Canada in the reporting fiscal year; or

(b) a constituent entity of the MNE group — which is not the ultimate parent entity of the MNE group — with respect to the reporting fiscal year of the MNE group, if the following conditions are satisfied:

(i) the constituent entity is resident in Canada in the reporting fiscal year, and

(ii) one of the following conditions applies:

(A) the ultimate parent entity of the MNE group is not obligated to file a country-by-country report in its jurisdiction of residence,

(B) the jurisdiction of residence of the ultimate parent entity of the MNE group does not have a qualifying competent authority agreement in effect to which Canada is a party on or before the time specified in subsection (6) for filing the country-by-country report for the reporting fiscal year, or

(C) there has been a systemic failure of the jurisdiction of residence of the ultimate parent entity and the Minister has notified the constituent entity of the systemic failure.

#### **Designation for multiple constituent entities**

(4) If more than one constituent entity of an MNE group is described in paragraph (3)(b) in respect of a reporting fiscal year, one of those constituent entities may be designated — on or before the date specified in subsection (6) in respect of the reporting fiscal year — so that it is entitled to file a country-by-country report for the reporting fiscal year with the Minister on behalf of all such constituent entities in the MNE group.

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**Surrogate filing**

**(5)** Notwithstanding subsection (3), a constituent entity of an MNE group described in paragraph (3)(b) is not required to file a country-by-country report with the Minister with respect to a reporting fiscal year if

**(a)** a surrogate parent entity of the MNE group files a country-by-country report in respect of the reporting fiscal year with the tax authority of its jurisdiction of residence on or before the date specified in subsection (6); and

**(b)** the jurisdiction of residence of the surrogate parent entity

**(i)** requires filing of country-by-country reports,

**(ii)** has a qualifying competent authority agreement in effect to which Canada is a party on or before the time specified in subsection (6) for filing the country-by-country report in respect of the reporting fiscal year,

**(iii)** is not in a position of systemic failure, and

**(iv)** has been notified by the surrogate parent entity that it is the surrogate parent entity.

**Time for filing**

**(6)** A country-by-country report in respect of a reporting fiscal year of an MNE group that is required to be filed by a constituent entity under this section shall be filed on or before the later of

**(a)** if notification of systemic failure has been received by the constituent entity, 30 days after receipt of the notification; and

**(b)** 12 months after the last day of the reporting fiscal year.

**(2) Subsection (1) applies to reporting fiscal years of MNE groups that begin after 2015.**

**70 (1) The portion of section 8201 of the Regulations before paragraph (a) is replaced by the following:**

**Permanent establishment**

**8201** For the purposes of subsection 16.1(1), the definition *outstanding debts to specified non-residents* in subsection 18(5), subsections 100(1.3) and 112(2), the definition *qualified Canadian transit organization* in subsection 118.02(1), subsections 125.4(1) and 125.5(1), the definition *taxable supplier* in subsection 127(9), subparagraph 128.1(4)(b)(ii), paragraphs 181.3(5)(a) and 190.14(2)(b), section 233.8, the definitions *Canadian banking business* and *tax-indifferent investor* in subsection 248(1) and paragraph 260(5)(a) of the Act, a *permanent establishment* of a person or partnership (either of whom is referred to in this section as the person) means a fixed place of business of the person, including an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a workshop or a warehouse if the person has a fixed place of business and, where the person does not have any fixed place of business, the principal place at which the person's business is conducted, and

**(2) Subsection (1) is deemed to have come into force on January 1, 2016.**

**Common Reporting Standard Penalty and Consequential Amendments**

**71 (1) Subsection 225.1(6) of the Act is amended by adding the following after paragraph (a):**

**(a.1)** an amount payable under section 281;

**(2) Subsection (1) comes into force on July 1, 2017.**

**72 (1) Paragraph 265(2)(c) of the Act is replaced by the following:**

**(c)** for new individual accounts, other than accounts described in paragraph A of section III of Annex I to the agreement, the procedures described in paragraph B of section III of Annex I to the agreement;

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**(2) Paragraph 265(3)(b) of the Act is replaced by the following:**

**(b)** if the account is a new individual account described in paragraph A of section III of Annex I to the agreement, the procedures described in paragraph B of section III of Annex I to the agreement;

**(3) Subsections (1) and (2) come into force on July 1, 2017.**

**73 Proposed Part XIX of the Act is amended by adding the following after section 280.**

**Production of TIN**

**281 (1)** Every reportable person shall provide their TIN at the request of a reporting financial institution that is required under this Part to make an information return requiring the TIN.

**Confidentiality of TIN**

**(2)** A person required to make an information return referred to in subsection (1) shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under this Act or a regulation, the TIN without the written consent of the reportable person.

**Penalty for failure to provide TIN**

**(3)** Every reportable person who fails to provide on request their TIN to a reporting financial institution that is required under this Part to make an information return requiring the TIN is liable to a penalty of \$500 for each such failure, unless

**(a)** an application for the assignment of the TIN is made to the relevant reportable jurisdiction no later than 90 days after the request was made and the TIN is provided to the reporting financial institution that requested it within 15 days after the reportable person received it; or

**(b)** the reportable person is not eligible to obtain a TIN from the relevant reportable jurisdiction (including because the relevant reportable jurisdiction does not issue TINs).

**Assessment**

**(4)** The Minister may at any time assess any amount payable under subsection (3) by any person and, where the Minister sends a notice of assessment to the person, sections 150 to 163, subsections 164(1) and (1.4) to (7), sections 165 to 167 and Division J of Part I apply with such modifications as the circumstances require.

**(2) Subsection (1) comes into force on July 1, 2017.**

## Cross-Border Surplus Stripping

**74 (1) Paragraph (k) of the definition *proceeds of disposition* in section 54 of the Act is replaced by the following:**

**(k)** any amount that would otherwise be proceeds of disposition of property of a taxpayer to the extent that the amount is deemed by subsection 84.1(1), 212.1(1.1) or 212.2(2) to be a dividend paid to the taxpayer;

**(2) Subsection (1) applies in respect of dispositions that occur after March 21, 2016.**

**75 (1) Subsection 212.1(1) of the Act is replaced with the following:**

**Non-arm's length sales of shares by non-residents**

**212.1 (1)** Subsection (1.1) applies if a non-resident person or designated partnership (in this subsection and subsections (1.1) and (1.2) referred to as the *non-resident person*) disposes of shares (in this section referred to as the *subject shares*) of any class of the capital stock of a corporation resident in Canada (in this section referred to as the *subject corporation*) to another corporation resident in Canada (in this section referred to as the *purchaser corporation*) with which the non-resident person does not (otherwise than because of a right referred to in paragraph 251(5)(b)) deal at

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arm's length and, immediately after the disposition, the subject corporation is connected (within the meaning that would be assigned by subsection 186(4) if the references in that subsection to "payer corporation" and "particular corporation" were read as "subject corporation" and "purchaser corporation", respectively) with the purchaser corporation.

**Non-arm's length sales of shares by non-residents**

**(1.1)** If this subsection applies,

**(a)** the amount, if any, by which the fair market value of any consideration (other than any share of the capital stock of the purchaser corporation) received by the non-resident person from the purchaser corporation for the subject shares exceeds the paid-up capital in respect of the subject shares immediately before the disposition shall, for the purposes of this Act, be deemed to be a dividend paid at the time of the disposition by the purchaser corporation to the non-resident person and received at that time by the non-resident person from the purchaser corporation; and

**(b)** in computing the paid-up capital at any particular time after March 31, 1977 of any particular class of shares of the capital stock of the purchaser corporation, there shall be deducted that proportion of the amount, if any, by which the increase, if any, by virtue of the disposition, in the paid-up capital, computed without reference to this section as it applies to the disposition, in respect of all of the shares of the capital stock of the purchaser corporation exceeds the amount, if any, by which

**(i)** the paid-up capital in respect of the subject shares immediately before the disposition

exceeds

**(ii)** the fair market value of the consideration described in paragraph (a),

that the increase, if any, by virtue of the disposition, in the paid-up capital, computed without reference to this section as it applies to the disposition, in respect of the particular class of shares is of the increase, if any, by virtue of the disposition, in the paid-up capital, computed without reference to this section as it applies to the disposition, in respect of all of the issued shares of the capital stock of the purchaser corporation.

**Deemed consideration**

**(1.2)** For the purposes of subsections (1) and (1.1), if, in the absence of this subsection, no consideration would be received by the non-resident person from the purchaser corporation for the subject shares, the non-resident person is deemed to receive consideration other than shares of the capital stock of the purchaser corporation from the purchaser corporation for the subject shares, the fair market value of which is equal to the amount, if any, by which the fair market value of the subject shares disposed of by the non-resident person exceeds the amount of any increase because of the disposition in the fair market value of the shares of the capital stock of the purchaser corporation.

**(2) Subparagraph 212.1(2)(a)(ii) of the Act is replaced by the following:**

**(ii)** the total that would be determined under subparagraph (i) if this Act were read without reference to paragraph (1.1)(b), and

**(3) Paragraph 212.1(2)(b) of the Act is replaced by the following:**

**(b)** the total of all amounts each of which is an amount required by paragraph (1.1)(b) to be deducted in computing the paid-up capital in respect of the particular class of shares after March 31, 1977 and before the particular time.

**(4) The portion of paragraph 212.1(3)(a) of the Act before subparagraph (i) is replaced by the following:**

**(a)** a non-resident person or designated partnership shall, for greater certainty, be deemed not to deal at arm's length with a purchaser corporation at the time of a disposition described in subsection (1) if the non-resident person or designated partnership was,

**(5) The portion of paragraph 212.1(3)(b) of the Act before subparagraph (i) is replaced by the following:**

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**(b)** for the purposes of determining whether or not a particular non-resident person or designated partnership (in this paragraph referred to as the *taxpayer*) referred to in paragraph (a) was a member of a group of less than 6 persons that controlled a corporation at any time, any shares of the capital stock of that corporation owned at that time by

**(6) Subsection 212.1(4) of the Act is replaced by the following:**

**Where section does not apply**

**(4)** Notwithstanding subsection (1), subsection (1.1) does not apply in respect of a disposition by a non-resident corporation of shares of a subject corporation to a purchaser corporation if

- (a)** immediately before the disposition, the purchaser corporation controlled the non-resident corporation; and
- (b)** it is not the case that, at the time of the disposition, or as part of a transaction or event or series of transactions or events that includes the disposition, a non-resident person or designated partnership
  - (i)** owns, directly or indirectly, shares of the capital stock of the purchaser corporation, and
  - (ii)** does not deal at arm's length with the purchaser corporation.

**(7) Subsections (1) to (6) apply in respect of dispositions that occur after March 21, 2016.**

**76 (1) Paragraph 212.2(1)(b) of the Act is replaced by the following:**

**(b)** subsection 212.1(1.1) does not apply in respect of the disposition;

**(2) Subsection (1) applies in respect of dispositions that occur after March 21, 2016.**

## Extension of the Back-to-Back Rules

**77 (1) Section 15 of the Act is amended by adding the following after subsection (2.15):**

**Back-to-back arrangement — application**

**(2.16)** Subsection (2.17) applies at any time if

- (a)** at that time, a person or partnership (referred to in this subsection and subsections (2.17) to (2.192) as the *intended borrower*) has an amount outstanding as or on account of a debt or other obligation to pay an amount (in this subsection and subsections (2.17) to (2.192) referred to as the *shareholder debt*) to a person or partnership (in this subsection and subsections (2.17) to (2.192) referred to as the *immediate funder*);
- (b)** subsection (2) would not, in the absence of this subsection and subsection (2.17), apply to the shareholder debt;
- (c)** at that time, a funder, in respect of a particular funding arrangement
  - (i)** has an amount outstanding as or on account of a debt or other obligation to pay an amount to a person or partnership that meets either of the following conditions:
    - (A)** recourse in respect of the debt or other obligation is limited in whole or in part, either immediately or in the future and either absolutely or contingently, to a funding arrangement, or
    - (B)** it can reasonably be concluded that all or a portion of the particular funding arrangement was entered into or was permitted to remain outstanding because
      - (I)** all or a portion of the debt or other obligation was entered into or was permitted to remain outstanding, or
      - (II)** the funder anticipated that all or a portion of the debt or other obligation would become owing or remain outstanding, or

(ii) has a specified right in respect of a particular property that was granted directly or indirectly by a person or partnership and

(A) the existence of the specified right is required under the terms and conditions of the particular funding arrangement, or

(B) it can reasonably be concluded that all or a portion of the particular funding arrangement was entered into, or was permitted to remain in effect, because

(I) the specified right was granted, or

(II) the funder anticipated that the specified right would be granted; and

(d) at that time, one or more funders is an ultimate funder.

#### **Back-to-back arrangement – consequences**

(2.17) If this subsection applies at a particular time, then for the purposes of this section and section 80.4, the intended borrower is deemed to receive a loan from each particular ultimate funder at the particular time, the amount of which is equal to the amount determined by the formula

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

where

A is the lesser of

(a) the amount outstanding as or on account of the shareholder debt at the particular time; and

(b) the total of all amounts, each of which is, at the particular time,

(i) an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to an ultimate funder under a funding arrangement in respect of the shareholder debt, or

(ii) the fair market value of a particular property in respect of which an ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

B is the total of all amounts, each of which is, at the particular time,

(a) an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt, or

(b) the fair market value of a particular property in respect of which the particular ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

C is the total amount determined under paragraph (b) of the description of A;

D is the total of all amounts, each of which is, in respect of the shareholder debt, an amount that the intended borrower has been deemed by this subsection to have received from the particular ultimate funder as a loan at any time before the particular time; and

E is the total amount of any repayments deemed by subsections (2.19) and (2.191) to have occurred before the particular time, in respect of any deemed loans from the particular ultimate funder that are referred to in the description of D.

#### **Back-to-back arrangement – conditions for deemed repayment**

(2.18) Subsection (2.19) applies in respect of an intended borrower and a particular ultimate funder at a particular time if

(a) prior to the particular time, subsection (2.17) has applied in respect of a shareholder debt to deem one or more loans to have been received by the intended borrower from the particular ultimate funder; and

**(b)** at the particular time,

**(i)** an amount owing in respect of the shareholder debt is repaid in whole or in part,

**(ii)** an amount owing in respect of a debt or other obligation owing to the particular ultimate funder by a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt is repaid in whole or in part, or

**(iii)** either

**(A)** there is a decrease in the fair market value of a property in respect of which a specified right was granted by the particular ultimate funder to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt, or

**(B)** a right described in clause (A) is extinguished.

#### **Back-to-back arrangement — deemed repayment**

**(2.19)** If this subsection applies in respect of an intended borrower and a particular ultimate funder at a particular time,

**(a)** the intended borrower is deemed, for the purposes of this section, paragraph 20(1)(j), section 80.4 and subsection 227(6.1), to repay, in whole or in part, one or more of the deemed loans referred to in paragraph (2.18)(a) at the particular time; and

**(b)** the total amount of the deemed repayments referred to in paragraph (a) is to be determined by the following formula:

$$A - B - C$$

where

**A** is the total of all amounts, each of which is the amount of a loan deemed by subsection (2.17) to have been received, at any time before the particular time, by the intended borrower from the particular ultimate funder in respect of the shareholder debt,

**B** is the total of all amounts deemed by this subsection to have been repaid, at any time before the particular time, by the intended borrower in respect of any loans referred to in the description of A, and

**C** is the amount determined by the formula

$$D \times E/F$$

where

**D** is the lesser of

**(a)** the amount outstanding as or on account of the shareholder debt, immediately after the particular time, and

**(b)** the total of all amounts, each of which is, immediately after the particular time,

**(i)** an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to an ultimate funder under a funding arrangement in respect of the shareholder debt, or

**(ii)** the fair market value of a particular property in respect of which an ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt,

**E** is the total of all amounts, each of which is, immediately after the particular time

**(a)** an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt, or

(b) the fair market value of a particular property in respect of which the particular ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt, and

F is the amount determined under paragraph (b) in the description of D.

#### **Negative amounts**

**(2.191)** If, in the absence of section 257, the formula in subsection (2.17) would result in a negative amount at a particular time,

(a) the intended borrower is deemed, for the purposes of this section, paragraph 20(1)(j), section 80.4 and subsection 227(6.1), to repay, in whole or in part, one or more of the loans deemed by subsection (2.17) to have been received by the intended borrower from the particular ultimate funder before the particular time; and

(b) the total amount of the deemed repayments referred to in paragraph (a) is equal to the absolute value of that negative amount.

#### **Back-to-back arrangement – definitions**

**(2.192)** The following definitions apply in this subsection and subsections (2.16) to (2.191).

**funder**, in respect of a funding arrangement, means

(a) if the funding arrangement is described in paragraph (a) of the definition **funding arrangement**, the immediate funder;

(b) if the funding arrangement is described in paragraph (b) of the definition **funding arrangement**, the creditor in respect of the debt or other obligation or the grantor of the specified right, as the case may be; and

(c) a person or partnership that does not deal at arm's length with a person or partnership referred to in paragraphs (a) to (c). (*bailleur de fonds*)

**funding arrangement** means

(a) the shareholder debt; and

(b) each debt or other obligation or specified right, owing by or granted to a funder, in respect of a particular funding arrangement, if the debt or other obligation or specified right meets the conditions in subparagraph (2.16)(c)(i) or (ii) in respect of a funding arrangement. (*mécanisme de financement*)

**specified right** has the same meaning as in subsection 18(5). (*droit déterminé*)

**ultimate funder** means a funder, if subsection (2) would apply to the shareholder debt if the creditor under the shareholder debt were the funder instead of the immediate funder. (*bailleur de fonds ultime*)

#### **(2) Subsection (1) applies in respect of**

(a) if the immediate funder in respect of a shareholder debt is a debtor, or holder of a specified right, under a funding arrangement under which an ultimate funder is the creditor or the grantor of the specified right,

(i) loans received and indebtedness incurred in respect of the shareholder debt after March 21, 2016, and

(ii) any portion of a particular loan received or indebtedness incurred in respect of the shareholder debt before March 22, 2016 that remains outstanding on that day, as if that portion were a separate loan or indebtedness that was received or incurred, as the case may be, on March 22, 2016 in the same manner and on the same terms as the particular loan or indebtedness;

**(b) in any other case,**

**(i) loans received and indebtedness incurred after 2016,**

**(ii) any portion of a particular loan received or indebtedness incurred before January 1, 2017 that remains outstanding on that day, as if that portion were a separate loan or indebtedness that was received or incurred, as the case may be, on January 1, 2017 in the same manner and on the same terms as the particular loan or indebtedness.**

**78 (1) Paragraph 80.4(2)(e) of the Act is replaced by the following:**

**(e)** the total of

**(i)** the amount of interest for the year paid on all such loans and debts (other than loans deemed to have been made under subsection 15(2.17)) not later than 30 days after the end of the year, and

**(ii)** the specified interest amounts, for the year, in respect of all such loans that are deemed to have been made under subsection 15(2.17).

**(2) Subsection 80.4(7) of the Act is amended by adding the following in alphabetical order:**

**specified interest amount**, for a year, in respect of a loan (referred to in this definition as the **deemed loan**) deemed to have been made under subsection 15(2.17) by an **ultimate funder** (as defined in subsection 15(2.192)), means the amount determined by the formula

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

where

**A** is the amount of interest for the year paid not later than 30 days after the end of the year on all debts — owing by one or more **funders** (as defined in subsection 15(2.192), but excluding any funders that are **ultimate funders** as defined in subsection 15(2.192)) under one or more **funding arrangements** (as defined in subsection 15(2.192)) to the ultimate funder — that gave rise to the deemed loan,

**B** is the average amount outstanding for the year in respect of the deemed loan, and

**C** is the total of all amounts each of which is the average amount outstanding in the year as or on account of an amount owing under a debt described in A. (*montant d'intérêts déterminé*)

**(3) Subsections (1) and (2) apply in respect of**

**(a) loans received and indebtedness incurred after March 21, 2016; and**

**(b) any portion of a particular loan received or indebtedness incurred before March 22, 2016 that remains outstanding on that day, as if that portion were a separate loan or indebtedness that was received or incurred, as the case may be, on March 22, 2016 in the same manner and on the same terms as the particular loan or indebtedness.**

**79 (1) Subsections 212(3.1) to (3.3) of the Act are replaced by the following:**

**Back-to-back loan arrangement**

**(3.1)** Subsection (3.2) applies at any time in respect of a taxpayer if

**(a)** the taxpayer pays or credits a particular amount at that time as, on account or in lieu of payment of, or in satisfaction of, interest (determined without reference to paragraph 18(6.1)(b) and subsection 214(16)) in respect of a particular debt or other obligation to pay an amount to a person or partnership (in this subsection and subsection (3.2) referred to as the immediate funder);

**(b)** the immediate funder is not

- 
- (i) a person resident in Canada that does not deal at arm's length with the taxpayer, or
- (ii) a partnership each member of which is a person described in subparagraph (i);
- (c) at any time in the period during which the interest accrued (in this subsection and subsections (3.2) and (3.3) referred to as the *relevant period*), a relevant funder, in respect of a particular relevant funding arrangement,
- (i) has an amount outstanding as or on account of a debt or other obligation to pay an amount to a person or partnership that meets any of the following conditions:
- (A) recourse in respect of the debt or other obligation is limited in whole or in part, either immediately or in the future and either absolutely or contingently, to a relevant funding arrangement, or
- (B) it can reasonably be concluded that all or a portion of the particular relevant funding arrangement was entered into, or was permitted to remain in effect, because
- (I) all or a portion of the debt or other obligation was entered into or was permitted to remain outstanding, or
- (II) the relevant funder anticipated that all or a portion of the debt or other obligation would become owing or remain outstanding, or
- (ii) has a specified right in respect of a particular property that was granted directly or indirectly by a person or partnership and
- (A) the existence of the specified right is required under the terms and conditions of the particular relevant funding arrangement, or
- (B) it can reasonably be concluded that all or a portion of the particular relevant funding arrangement was entered into, or was permitted to remain in effect, because
- (I) the specified right was granted, or
- (II) the relevant funder anticipated that the specified right would be granted;
- (d) the tax that would be payable under this Part in respect of the particular amount, if the particular amount were paid or credited to any ultimate funder rather than the immediate funder, is greater than the tax payable under this Part (determined without reference to this subsection and subsection (3.2)) in respect of the particular amount; and
- (e) at any time during the relevant period, the total of all amounts — each of which is an amount outstanding as or on account of a debt or other obligation owed by the immediate funder that is a relevant funding arrangement or the fair market value of a particular property in respect of which the immediate funder is granted a specified right that is a relevant funding arrangement — is equal to at least 25% of the total of
- (i) the amount outstanding as or on account of the particular debt or other obligation, and
- (ii) the total of all amounts each of which is an amount (other than the amount described in subparagraph (i)) that the taxpayer, or a person or partnership that does not deal at arm's length with the taxpayer, has outstanding as or on account of a debt or other obligation to pay an amount to the immediate funder under the agreement, or an agreement that is connected to the agreement, under which the particular debt or other obligation was entered into where
- (A) the immediate funder is granted a security interest (as defined in subsection 18(5)) in respect of a property that is the debt or other obligation owed by the immediate funder or the particular property, as the case may be, and the security interest secures the payment of two or more debts or other obligations that include the debt or other obligation and the particular debt or other obligation, and
- (B) each security interest that secures the payment of a debt or other obligation referred to in clause (A) secures the payment of every debt or other obligation referred to in that clause.

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### Back-to-back loan arrangement

**(3.2)** If this subsection applies at any time in respect of a taxpayer, then for the purposes of paragraph (1)(b), the taxpayer is deemed, at that time, to pay interest to each ultimate funder, the amount of which is determined for each particular ultimate funder by the formula

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

where

**A** is the particular amount referred to in paragraph (3.1)(a);

**B** is the portion, if any, of the particular amount deemed by subsection 214(16) to have been paid by the taxpayer as a dividend;

**C** is the average of all amounts each of which is, at a particular time in the relevant period, the amount determined by the formula

$$G - H$$

where

**G** is the lesser of the following amounts:

**(a)** the amount of the particular debt or other obligation referred to in paragraph (3.1)(a) outstanding at the particular time, and

**(b)** the total of all amounts each of which is at that particular time

**(i)** an amount outstanding as or on account of a debt or other obligation that is owed to the particular ultimate funder under a relevant funding arrangement,

**(ii)** the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular ultimate funder has granted a specified right under a relevant funding arrangement, or

**(iii)** if neither clause (i) nor (ii) applies at that particular time, nil; and

**H** is the total of all amounts each of which is, at the particular time, the amount that is

**(a)** an amount outstanding as or on account of a debt or other obligation that is owed by the particular ultimate funder under a relevant funding arrangement,

**(b)** the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular ultimate funder has a specified right under a relevant funding arrangement, or

**(c)** if neither subparagraph (a) nor (b) applies at that particular time, nil;

**D** is the average of all amounts each of which is the amount of the particular debt or other obligation outstanding at a time in the relevant period;

**E** is the rate of tax (determined without reference to subsection 214(16)) that would be imposed under this Part on the particular amount if the particular amount were paid by the taxpayer to the particular ultimate funder at that time; and

**F** is the rate of tax (determined without reference to subsection 214(16)) imposed under this Part on the immediate funder in respect of all or the portion of the particular amount paid or credited to the immediate funder.

### Excess funding

**(3.3)** Subsection (3.4) applies in respect of a particular relevant funder if the amount determined by the following formula is greater than nil:

$$A - B$$

where

**A** is the total of all amounts each of which is the amount owing by the particular relevant funder, or is the fair market value of a property in respect of which the particular relevant funder has a specified right, under a relevant funding arrangement; and

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**B** is the total of all amounts each of which is the amount owed to the particular relevant funder, or is the fair market value of a property in respect of which the particular relevant funder has granted a specified right, under a relevant funding arrangement.

**Excess funding — deemed funding allocation**

**(3.4)** If this subsection applies in respect of a particular relevant funder, for the purposes of subsections (3.2) to (3.4) (other than for the purpose of applying subsections (3.3) and (3.4) in respect of the particular relevant funder), each amount that is owed by the particular relevant funder, or that is the fair market value of a property in respect of which the particular relevant funder has been granted a specified right, under a relevant funding arrangement, is deemed to be the amount determined by the following formula:

$$C/D \times E$$

where

**C** is the amount owing or the fair market value of the property, as the case may be;

**D** is the amount determined for A in subsection (3.3); and

**E** is the amount determined for B in subsection (3.3).

**Multiple funding arrangements**

**(3.5)** If an amount owing by a relevant funder or a specified right held by the relevant funder is a relevant funding arrangement in respect of more than one particular debt or other obligation referred to in paragraph (3.1)(a), for the purposes of applying subsections (3.2) to (3.4) in respect of each of the particular debts or other obligations, the amount owing, or the fair market value of the property in respect of which the specified right was granted, as the case may be, is deemed, in respect of each particular debt or other obligation, to be the amount determined by the following formula:

$$A/B \times C$$

where

**A** is the total of all amounts each of which is an amount owing to the relevant funder, or the fair market value of a property in respect of which the relevant funder has granted a specified right, under a relevant funding arrangement, in respect of the particular debt or other obligation;

**B** is the total of all amounts each of which is an amount owing to the relevant funder, or the fair market value of a property in respect of which the relevant funder has granted a specified right, under a relevant funding arrangement, in respect of all of the particular debts or other obligations; and

**C** is the amount owing by the relevant funder or the fair market value of the property in respect of which the relevant funder holds the specified right.

**Back-to-back loan arrangement — Character substitution**

**(3.6)** Subsection (3.7) applies at a particular time in respect of

**(a)** shares of the capital stock of a particular relevant funder, in respect of a particular relevant funding arrangement, if the particular relevant funder has an obligation to pay or credit a dividend on the shares, either immediately or in the future and either absolutely or contingently, to a person or partnership, and any of the following conditions is met:

**(i)** the amount of the dividend is determined, in whole or in part, by reference to an amount of interest paid or credited, or an obligation to pay or credit interest, under a relevant funding arrangement, or

**(ii)** it can reasonably be concluded that the particular relevant funding arrangement was entered into or was permitted to remain in effect, because

**(A)** the shares were issued or were permitted to remain issued and outstanding, or

**(B)** it was anticipated that the shares would be issued or would be permitted to remain issued and outstanding;  
or

**(b)** a specified royalty arrangement, if a particular relevant funder, in respect of a particular relevant funding arrangement, is a specified licensee that has an obligation to pay or credit an amount under the specified royalty arrangement, either immediately or in the future and either absolutely or contingently, to a person or partnership, and any of the following conditions is met:

**(i)** the amount is determined, in whole or in part, by reference to an amount of interest paid or credited, or an obligation to pay or credit interest, under a relevant funding arrangement, or

**(ii)** it can reasonably be concluded that the particular relevant funding arrangement was entered into or was permitted to remain in effect, because

**(A)** the specified royalty arrangement was entered into or was permitted to remain in effect, or

**(B)** it was anticipated that the specified royalty arrangement would be entered into or remain in effect.

#### **Back-to-back loan arrangement – Character substitution**

**(3.7)** If this subsection applies at a particular time in respect of a specified royalty arrangement (under which a particular relevant funder is a specified licensee) or shares of the capital stock of a particular relevant funder, then, for the purposes of subsections (3.1) to (3.8),

**(a)** the specified royalty arrangement or the holding of the shares, as the case may be, is deemed to be a relevant funding arrangement;

**(b)** the specified licensor or shareholder, as the case may be, in respect of the relevant funding arrangement, is deemed to be a relevant funder, in respect of the relevant funding arrangement;

**(c)** the conditions in paragraph (3.1)(c) are deemed to be met in respect of the relevant funding arrangement; and

**(d)** the relevant funder is deemed to be owed, under the relevant funding arrangement and by the particular relevant funder, an amount as or on account of a debt, the outstanding amount of which is determined by the formula

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

where

**A** is the total of all amounts each of which is at the particular time,

**(a)** an amount outstanding as or on account of a debt or other obligation that is owed to the particular relevant funder under a relevant funding arrangement,

**(b)** the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular relevant funder has granted a specified right under a relevant funding arrangement, or

**(c)** if neither paragraph (a) nor (b) applies at that particular time, nil,

**B** is the total of all amounts each of which is, at the particular time, in respect of a relevant funding arrangement (other than a relevant funding arrangement deemed under paragraph (3.7)(a)) and is

**(a)** an amount outstanding as or on account of a debt or other obligation that is owed by the particular relevant funder under the relevant funding arrangement,

**(b)** the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular relevant funder has been granted a specified right under a relevant funding arrangement, or

**(c)** if neither paragraph (a) nor (b) applies at that particular time, nil,

**C** is the fair market value, at the particular time, of

**(a)** if the relevant funding arrangement is described in paragraph (3.6)(a), the shares, or

**(b)** if the relevant funding arrangement is described in paragraph (3.6)(b), the specified royalty arrangement, and

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**D** is the total of all amounts each of which is, in respect of a relevant funding arrangement referred to in the description of C, the amount determined for C at the particular time.

**Back-to-back loan arrangement — Definitions**

**(3.8)** The following definitions apply in this subsection and subsections (3.1) to (3.7).

**relevant funder**, in respect of a relevant funding arrangement, means

**(a)** if the relevant funding arrangement is described in paragraph (a) of the definition **relevant funding arrangement**, the immediate funder referred to in paragraph (3.1)(a);

**(b)** if the relevant funding arrangement is described in paragraph (b) of the definition **relevant funding arrangement**, the creditor in respect of the debt or other obligation or the grantor of the specified right, as the case may be; or

**(c)** a person or partnership that does not deal at arm's length with a person or partnership that is referred to in paragraphs (a) or (b) and that deals at arm's length with the taxpayer. (*baillieur de fonds considéré*)

**relevant funding arrangement** means

**(a)** the particular debt or other obligation referred to in paragraph (3.1)(a);

**(b)** each debt or other obligation or specified right, owing by or granted to a relevant funder, in respect of a particular relevant funding arrangement, if the debt or other obligation or specified right meets the conditions in subparagraph (3.1)(c)(i) or (ii) in respect of a relevant funding arrangement; and

**(c)** specified shares issued by a relevant funder that meet the conditions in subparagraph (3.1)(c)(i) or (ii) in respect of a relevant funding arrangement. (*mécanisme de financement considéré*)

**specified licensee** means

**(a)** a lessee, licensee or grantee of a right similar to a right granted under a lease or licence, under a specified royalty arrangement;

**(b)** an assignee under a specified royalty arrangement; or

**(c)** a purchaser under a specified royalty arrangement. (*porteur de licence déterminé*)

**specified licensor** means

**(a)** a lessor, licensor or grantor of a right similar to a right granted under a lease or licence, under a specified royalty arrangement;

**(b)** an assignor under a specified royalty arrangement; or

**(c)** a seller under a specified royalty arrangement. (*cédant de licence déterminé*)

**specified right** has the meaning assigned by subsection 18(5). (*droit déterminé*)

**specified royalty arrangement** has the meaning assigned by subsection (3.94). (*mécanisme de redevance déterminé*)

**specified share** means a share of the capital stock of a corporation if, under the terms or conditions of the share, or any agreement or arrangement relating to the share,

**(a)** the holder of the share may cause the share to be redeemed, acquired or cancelled;

(b) the issuing corporation is, or may be, required to redeem, acquire or cancel the share at a specific time; or

(c) the share is convertible or exchangeable into a share that meets the conditions in paragraphs (a) or (b). (*action déterminée*)

**ultimate funder** means a relevant funder, in respect of a relevant funding arrangement (other than the immediate funder) that either

(a) is not a debtor, or a holder of a specified right, under a relevant funding arrangement; or

(b) is a debtor, or a holder of a specified right, under a relevant funding arrangement, if the amount that would — if the relevant funder were an ultimate funder — be determined for C in the formula in subsection (3.2) is greater than nil. (*bailleur de fonds ultime*)

### **Back-to-back arrangement — rents, royalties, similar payments**

**(3.9)** Subsection (3.91) applies at any time in respect of a taxpayer if

(a) the taxpayer pays or credits a particular amount at that time as, on account or in lieu of payment of, or in satisfaction of, rent, royalty or similar payment, in respect of a particular lease, licence or similar agreement, to a non-resident person or a partnership any member of which is a non-resident person (in this subsection and subsections (3.91) to (3.94) referred to as the *immediate licensor*);

(b) at any time at or after the time when the particular lease, licence or similar agreement was entered into, a relevant licensor in respect of a particular relevant royalty arrangement has an obligation to pay or credit an amount, either immediately or in the future and either absolutely or contingently, to a person or partnership, in respect of a specified royalty arrangement, and any of the following additional conditions is met:

(i) the amount is determined, in whole or in part, by reference to

(A) an amount paid or credited, or an obligation to pay or credit an amount, in respect of a relevant royalty arrangement, or

(B) one or more of the fair market value of, any revenue, profits, income, or cash flow from, or any other similar criteria in respect of, a particular property, if a right in respect of the property is granted under the particular lease, licence or similar agreement, or

(ii) it can reasonably be concluded that the particular relevant royalty arrangement was entered into, or was permitted to remain in effect, because

(A) the specified royalty arrangement was entered into or was permitted to remain in effect, or

(B) it was anticipated that the specified royalty arrangement would be entered into or remain in effect; and

(c) the tax that would be payable under this Part in respect of the particular amount, if the particular amount were paid or credited to an ultimate licensor rather than the immediate licensor, is greater than the tax payable under this Part (determined without reference to this subsection and subsection (3.91)) in respect of the particular amount.

### **Back-to-back arrangement — rents, royalties, similar payments**

**(3.91)** If this subsection applies at any time in respect of a taxpayer, then, for the purposes of paragraph (1)(d), the taxpayer is deemed, at that time, to pay to each ultimate licensor an amount — of the same character as the particular amount referred to in paragraph (3.9)(a) — determined for each particular ultimate licensor by the formula

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

where

**A** is the particular amount referred to in paragraph (3.9)(a);

**B** is

**(a)** the portion of the amount referred to in paragraph (3.9)(a) that is demonstrated, to the satisfaction of the Minister, to be reasonably allocable to the particular ultimate licensor, and

**(b)** if an amount is not demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each particular ultimate licensor, one;

**C** is

**(a)** the total of all amounts, each of which is the portion of the amount referred to in paragraph (3.9)(a) that is demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each ultimate licensor, and

**(b)** if an amount is not demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each particular ultimate licensor, the number of ultimate licensors;

**D** is

**(a)** if an amount is not demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each particular ultimate licensor, the highest rate of tax that would be imposed under this Part on the particular amount referred to in paragraph (3.9)(a) if the particular amount were paid by the taxpayer to any of the ultimate licensors at that time, and

**(b)** in any other case, the rate of tax that would be imposed under this Part on the particular amount referred to in paragraph (3.9)(a) if the particular amount were paid by the taxpayer to the particular ultimate licensor at that time; and

**E** is the rate of tax imposed under this Part at that time on the immediate licensor in respect of the particular amount, referred to in paragraph (3.9)(a), paid or credited to the immediate licensor.

#### **Back-to-back arrangement — character substitution**

**(3.92)** Subsection (3.93) applies in respect of

**(a)** shares of the capital stock of a particular relevant licensor, in respect of a particular relevant royalty arrangement, if — at any time at or after the time when a particular lease, licence or similar agreement referred to in paragraph (3.9)(a) was entered into — the particular relevant licensor has an obligation to pay or credit an amount as, on account or in lieu of payment of, or in satisfaction of, a dividend on the shares, either immediately or in the future and either absolutely or contingently, to a person or partnership, and any of the following conditions is met:

**(i)** the amount of the dividend is determined, in whole or in part, by reference to

**(A)** an amount of rent, royalty or similar payment paid or credited, or an obligation to pay or credit rent, royalty or similar payment, under a relevant royalty arrangement, or

**(B)** one or more of the fair market value of, any revenue profits, income or cash flow from, or any other similar criteria in respect of a particular property, if a right in respect of the property is granted under the particular lease, licence or similar agreement, or

**(ii)** it can reasonably be concluded that the particular relevant royalty arrangement was entered into or was permitted to remain in effect, because

**(A)** the shares were issued or were permitted to remain issued and outstanding, or

**(B)** it was anticipated that the shares would be issued or would be permitted to remain issued and outstanding; or

**(b)** an amount outstanding as or on account of a debt or other obligation to pay an amount, if — at any time at or after the time when a particular lease, licence or similar agreement referred to in paragraph (3.9)(a) was entered into — a particular relevant licensor, in respect of a particular relevant royalty arrangement, has an obligation to pay or credit an amount as, on account or in lieu of payment of, or in satisfaction of, interest under the debt or other obligation, either immediately or in the future and either absolutely or contingently, to a person or partnership, and any of the following conditions is met:

(ii) the amount of the interest is determined, in whole or in part, by reference to

(A) an amount of rent, royalty or similar payment paid or credited, or an obligation to pay or credit rent, royalty or similar payment, under a relevant royalty arrangement, or

(B) one or more of the fair market value of, any revenue profits, income or cash flow from, or any other similar criteria in respect of a particular property, if a right in respect of the property is granted under the particular lease, licence or similar agreement, or

(ii) it can reasonably be concluded that the particular relevant royalty arrangement was entered into or was permitted to remain in effect, because

(A) the debt or other obligation was entered into or was permitted to remain in effect, or

(B) it was anticipated that the debt or other obligation would be entered into or remain in effect.

#### **Back-to-back arrangement — character substitution**

**(3.93)** If this subsection applies in respect of a debt or other obligation to pay an amount (under which a particular relevant licensor is a borrower) or shares of the capital stock of a particular relevant licensor, then, for the purposes of subsections (3.9) to (3.94),

(a) the debt or other obligation or the holding of the shares, as the case may be, is deemed to be a relevant royalty arrangement;

(b) the creditor or shareholder, as the case may be, in respect of the relevant royalty arrangement, is deemed to be a relevant licensor, in respect of the relevant royalty arrangement; and

(c) the relevant royalty arrangement is deemed to be a specified royalty arrangement in respect of which the conditions in paragraph (3.9)(b) are met.

#### **Back-to-back arrangement — definitions**

**(3.94)** The following definitions apply in this subsection and subsections (3.9) to (3.93).

**lease, licence or similar agreement** means an agreement under which a rent, royalty or similar payment is or could be made. (*convention de bail, licence ou autre convention semblable*)

**relevant licensor**, in respect of a relevant royalty arrangement, means

(a) if the relevant royalty arrangement is described in paragraph (a) of the definition relevant royalty arrangement, the immediate licensor referred to in paragraph (3.9)(a);

(b) if the relevant royalty arrangement is described in paragraph (b) of the definition relevant royalty arrangement, a person or partnership that is the lessor, the licensor or the grantor of a right similar to a right granted under a lease or licence, the assignor or the seller, as the case may be; or

(c) a person or partnership that does not deal at arm's length with a relevant licensor referred to in paragraph (a) or (b). (*cédant de licence considéré*)

**relevant royalty arrangement** means

(a) the particular lease, licence or similar agreement referred to in paragraph (3.9)(a); and

(b) each specified royalty arrangement that meets the conditions in subparagraph (3.9)(b)(i) or (ii) in respect of a relevant royalty arrangement. (*mécanisme de redevance considéré*)

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**rent, royalty or similar payment** means a rent, royalty or similar payment described in paragraph (1)(d) and, for greater certainty, includes any payment described in subparagraphs (1)(d)(i) to (v) but does not include any payment described in subparagraphs (1)(d)(vi) to (xii). (*loyer, redevance ou paiement semblable*)

**specified royalty arrangement** means a lease, license or similar agreement, an assignment or an instalment sale. (*mécanisme de redevance déterminé*)

**ultimate licensor** means a relevant licensor (other than the immediate licensor), in respect of a relevant royalty arrangement, that is not, under a relevant royalty arrangement,

(a) a lessee, a licensee or a grantee of a right similar to a right granted under a lease or licence;

(b) an assignee; or

(c) a purchaser. (*cédant de licence ultime*)

**(2) Subsection (1) applies to amounts paid or credited after 2016.**

## Excise Tax Act and Related Regulations

### Alternative Arguments in Support of Assessments

**80 (1) Subsection 298(3) of the *Excise Tax Act* is amended by striking out “or” at the end of paragraph (a), by adding “or” at the end of paragraph (b) and by adding the following after paragraph (b):**

(c) to give effect to an alternative basis or argument advanced by the Minister under subsection (6.1).

**(2) The portion of subsection 298(6.1) of the Act before paragraph (a) is replaced by the following:**

#### **Alternative basis or argument**

**(6.1)** The Minister may advance an alternative basis or argument in support of an assessment of a person, or in support of all or any portion of the total amount determined on assessment to be payable or remittable by a person under this Part, at any time after the period otherwise limited by subsection (1) or (2) for making the assessment unless, on an appeal under this Part,

**(3) Section 298 of the Act is amended by adding the following after subsection (6.1):**

#### **Limitation**

**(6.2)** If a reassessment of a person is made that gives effect to an alternative basis or argument advanced by the Minister under subsection (6.1) in support of a particular assessment of the person, the Minister shall not reassess for an amount that is greater than the total amount of the particular assessment.

#### **Exception**

**(6.3)** Subsection (6.2) does not apply to any portion of an amount determined on reassessment that the Minister would be entitled to reassess under this Part at any time after the period otherwise limited by subsection (1) or (2) for making the reassessment if this Part were read without reference to subsection (6.1).

**(4) Subsections (1) to (3) come into force on the day on which the Act implementing this section receives royal assent except that those subsections do not apply in respect of appeals instituted on or before that day.**

## Eligible Capital Property

**81 (1) The definition *capital property* in subsection 123(1) of the Act is replaced by the following:**

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**capital property**, in respect of a person, means property that is, or would be if the person were a taxpayer under the *Income Tax Act*, capital property of the person within the meaning of that Act, other than property described in Class 12, 14, 14.1 or 44 of Schedule II to the *Income Tax Regulations*; (*immobilisation*)

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

**82 (1) The definition *eligible capital property* in subsection 2(1) of the *Streamlined Accounting (GST/HST) Regulations* is repealed.**

**(2) The definition *capital asset* in subsection 2(1) of the Regulations is replaced by the following:**

***capital asset*** of a person means

**(a)** property that is, or would be if the person were a taxpayer under the *Income Tax Act*, capital property of the person within the meaning of that Act, and

**(b)** in respect of a supply that was made by the person at any time before January 1, 2017, property that was, or would have been if the person were a taxpayer under the *Income Tax Act*, eligible capital property of the person within the meaning of that Act as it read at that time; (*bien immobilisé*)

**(3) The descriptions of A and B in subsection 2(2) of the Regulations are replaced by the following:**

**A** is the total of all consideration (other than consideration referred to in section 167.1 of the Act that is attributable to goodwill of a business) that became due, or was paid without having become due, to the registrant in the threshold period for the reporting period for taxable supplies (other than supplies of financial services, supplies by way of sale of real property or capital assets of the registrant and supplies deemed under subsection 177(1.2) of the Act to be made by the registrant) that are or would be, but for that subsection, made in Canada by the registrant;

**B** is the total of all tax under Division II that became collectible in the threshold period in respect of taxable supplies (other than supplies of financial services, supplies by way of sale of real property or capital assets of the registrant and supplies deemed under subsection 177(1.2) of the Act to be made by the registrant) that are or would be, but for that subsection, made in Canada by the registrant; and

**(4) The descriptions of A and B in paragraph 2(3)(a) of the Regulations are replaced by the following:**

**A** is the total of all consideration (other than consideration referred to in section 167.1 of the Act that is attributable to goodwill of a business) for taxable supplies (other than supplies of financial services and supplies by way of sale of real property or capital assets of the registrant) made by the registrant that became due, or was paid without having become due, to the registrant in the threshold period for the reporting period,

**B** is the total of all tax under Division II that became collectible in the threshold period in respect of taxable supplies (other than supplies of financial services and supplies by way of sale of real property or capital assets of the registrant) made by the registrant, and

**(5) The descriptions of D and E in paragraph 2(3)(b) of the Regulations are replaced by the following:**

**D** is the total of all consideration (other than consideration referred to in section 167.1 of the Act that is attributable to goodwill of a business) for taxable supplies (other than supplies of financial services and supplies by way of sale of real property or capital assets of the associate) made by the associate that became due, or was paid without having become due, to the associate in the particular fiscal year,

**E** is the total of all tax under Division II that became collectible in the particular fiscal year in respect of taxable supplies (other than supplies of financial services and supplies by way of sale of real property or capital assets of the associate) made by the associate, and

**(6) Subsection (1) applies in respect of supplies made on or after January 1, 2017.**

**(7) Subsections (2) to (5) come into force or are deemed to have come into force on January 1, 2017.**

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**83 (1) The definition *specified property* in subsection 15(1) of the Regulations is replaced by the following:**

*specified property*, in respect of a person, means property of the person other than real property and capital assets of the person; (*bien déterminé*)

**(2) Paragraph (a) of the definition *specified supply* in subsection 15(1) of the Regulations is replaced by the following:**

(a) a supply by way of sale of real property or capital assets of the supplier,

**(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2017.**

**84 (1) The definition *specified property* in subsection 19(1) of the Regulations is repealed.**

**(2) Paragraph (a) of the definition *designated supply* in subsection 19(1) of the Regulations is replaced by the following:**

(a) a supply by way of sale of real property or capital assets of the supplier,

**(3) Paragraphs (b) and (c) of the definition *specified supply* in subsection 19(1) of the Regulations are replaced by the following:**

(b) a supply by way of sale of a capital asset of the registrant that has a fair market value at the time of the supply of at least \$10,000,

(c) a supply made by the registrant by way of sale of a capital asset of the registrant if the registrant has claimed, or is entitled to claim, an input tax credit in respect of the last supply to, or importation by, the registrant of the capital asset,

**(4) The description of B in subparagraph 19(3)(c)(i) of the Regulations is replaced by the following:**

B is the total of all tax under Division II that became collectible in the fiscal year of the registrant immediately before the particular fiscal year in respect of taxable supplies (other than supplies by way of sale of real property or capital assets of the registrant) made by the registrant, and

**(5) Subsections (1) to (4) come into force or are deemed to have come into force on January 1, 2017.**

**85 (1) Subparagraphs (a)(ii) and (iii) of the description of C in subsection 21(1) of the Regulations are replaced by the following:**

(ii) for the particular reporting period or a preceding reporting period of the registrant during which the election was in effect in respect of a supply by way of sale to, importation by, or bringing into a participating province by, the registrant of personal property acquired, imported or brought into the participating province by the registrant for use as a capital asset of the registrant, which personal property has a fair market value at the time of the supply or bringing into the province, or a value as determined under section 215 of the Act at the time of the importation, of at least \$10,000,

(iii) for the particular reporting period or a preceding reporting period of the registrant during which the election was in effect in respect of an improvement to a capital asset (other than real property) of the registrant, if the registrant has claimed, or is entitled to claim, an input tax credit in respect of the last supply to, or importation by, the registrant of the capital asset,

**(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2017.**

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## Excise Act, 2001

### Alternative Arguments in Support of Assessments

**86 (1) Subsection 191(3) of the *Excise Act, 2001* is amended by striking out “or” at the end of paragraph (a), by adding “or” at the end of paragraph (b) and by adding the following after paragraph (b):**

(c) to give effect to an alternative basis or argument advanced by the Minister under subsection (7).

**(2) The portion of subsection 191(7) of the Act before paragraph (a) is replaced by the following:**

#### **Alternative basis or argument**

**(7)** The Minister may advance an alternative basis or argument in support of an assessment of a person, or in support of all or any portion of the total amount determined on assessment to be payable or remittable by a person under this Act, at any time after the period otherwise limited by subsection (1) or (2) for making the assessment unless on an appeal under this Act

**(3) Section 191 of the Act is amended by adding the following after subsection (7):**

#### **Limitation**

**(7.1)** If a reassessment of a person is made that gives effect to an alternative basis or argument advanced by the Minister under subsection (7) in support of a particular assessment of the person, the Minister shall not reassess for an amount that is greater than the total amount of the particular assessment.

#### **Exception**

**(7.2)** Subsection (7.1) does not apply to any portion of an amount determined on reassessment that the Minister would be entitled to reassess under this Act at any time after the period otherwise limited by subsection (1) or (2) for making the reassessment if this Act were read without reference to subsection (7).

**(4) Subsections (1) to (3) come into force on the day on which the Act implementing this section receives royal assent except that those subsections do not apply in respect of appeals instituted on or before that day.**

