

PROPOSED AMENDMENTS TO THE GST/HST LEGISLATION

R.S., c. E-15

EXCISE TAX ACT

1. (1) The definition “fiscal year” in subsection 123(1) of the *Excise Tax Act* is replaced by the following:“fiscal year”
« *exercice* »

“fiscal year” of a person means

- (a) if section 244.1 applies to the person, the period determined under that section,
- (b) if section 244.1 does not apply to the person and the person has made an election under section 244 that is in effect, the period that the person elected to be the fiscal year of the person, and
- (c) in all other cases, the taxation year of the person;

(2) Subsection (1) is deemed to have come into force on July 1, 2009.**2. (1) Paragraph 218.1(1)(a) of the Act is replaced by the following:**

(a) every person that is resident in a participating province and is the recipient of an imported taxable supply that is a supply of intangible personal property or a service that is acquired by the person for a prescribed purpose in respect of the supply or, in the absence of a prescribed purpose in respect of the supply, for consumption, use or supply in participating provinces to an extent that is prescribed, must, for each time an amount of consideration for the supply becomes due or is paid without having become due and for each participating province, pay to Her Majesty in right of Canada, in addition to the tax imposed by section 218, tax equal to the amount determined by the formula

$$A \times B \times C$$

where

- A is the tax rate for the participating province,
- B is the value of that consideration that is paid or becomes due at that time, and
- C is the prescribed percentage in respect of the supply or, in the absence of a prescribed percentage in respect of the supply, the extent (expressed as a percentage) to which the person acquired the property or service for consumption, use or supply in the participating province; and

(2) Clause (B) of the description of C in paragraph 218.1(1)(b) of the Act is replaced by the following:

(B) in any other case, the prescribed percentage in respect of the supply or, in the absence of a prescribed percentage in respect of the supply, the extent (expressed as a percentage) to which the person acquired the property or service for consumption, use or supply in the particular participating province.

(3) The description of A₂ in the second formula in paragraph 218.1(1.2)(a) of the Act is replaced by the following:

A₂ is the prescribed percentage in respect of the internal charge or, in the absence of a prescribed percentage in respect of the internal charge, the extent (expressed as a percentage) to which the internal charge is attributable to outlays or expenses that were made or incurred to consume, use or supply the whole or part of property or of a qualifying service, in respect of which the internal charge is attributable, in carrying on, engaging in or conducting an activity of the qualifying taxpayer in the particular participating province, and

(4) The description of B₂ in the third formula in paragraph 218.1(1.2)(a) of the Act is replaced by the following:

B₂ is the prescribed percentage in respect of the external charge or, in the absence of a prescribed percentage in respect of the external charge, the extent (expressed as a percentage) to which the whole or part of the outlay or expense, which corresponds to the external charge, was made or incurred to consume, use or supply the whole or part of property or of a qualifying service, in respect of which the external charge is attributable, in carrying on, engaging in or conducting an activity of the qualifying taxpayer in the particular participating province; and

(5) The description of D in paragraph 218.1(1.2)(b) of the Act is replaced by the following:

D is the prescribed percentage in respect of the qualifying consideration or, in the absence of a prescribed percentage in respect of the qualifying consideration, the extent (expressed as a percentage) to which the whole or part of the outlay or expense, which corresponds to the qualifying consideration, was made or incurred to consume, use or supply the whole or part of property or of a qualifying service, in respect of which the qualifying consideration is attributable, in carrying on, engaging in or conducting an activity of the qualifying taxpayer in the particular participating province.

(6) Subsections (1) to (5) apply in respect of any supply made on or after July 1, 2010.

3. (1) Subsection 220.08(1) of the Act is replaced by the following:

220.08 (1) Subject to this Part, every person that is resident in a participating province and is the recipient of a taxable supply made in a particular province of intangible personal property or a service that is acquired by the person for a prescribed purpose in respect of the supply or, in the absence of a prescribed purpose in respect of the supply, for consumption, use or supply in whole or in part in any participating province that is not the particular province must pay to Her Majesty in right of Canada, each time an amount of consideration for the supply becomes due or is paid without having become due, tax equal to the amount determined in prescribed manner.

(2) Subsection (1) applies in respect of any supply made on or after July 1, 2010.

4. (1) Subsection 225.2(1) of the Act is replaced by the following:

Tax in
participating
province

Selected listed
financial
institutions

225.2 (1) For the purposes of this Part, a financial institution is a selected listed financial institution throughout a reporting period in a fiscal year that ends in a particular taxation year of the financial institution if the financial institution is

- (a) a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) during the particular taxation year; and
- (b) a prescribed financial institution.

(2) The description of F in the formula in subsection 225.2(2) of the Act is replaced by the following:

F is the total of

(a) all amounts, each of which is an amount of tax (other than a prescribed amount of tax) under subsection 165(2) in respect of a supply made in the participating province to the financial institution, or under section 212.1 that is calculated at the tax rate for the participating province, that

(i) became payable, or was paid without having become payable, by the financial institution during

(A) the particular reporting period, or

(B) any other reporting period of the financial institution that precedes the particular reporting period, provided that

(I) the particular reporting period ends within two years after the end of the financial institution's fiscal year that includes the other reporting period, and

(II) the financial institution was a selected listed financial institution throughout the other reporting period,

(ii) was not deducted in determining an amount that, pursuant to this subsection, is required to be added to or may be deducted from the net tax for any reporting period of the financial institution other than the particular reporting period, and

(iii) is claimed by the financial institution in a return under this Division filed by the financial institution for the particular reporting period, and

(b) all amounts each of which is an amount, in respect of a supply made during the particular reporting period of property or a service to which the financial institution and another person have elected to have paragraph (c) of the description of A apply, equal to tax payable by the other person under any of subsection 165(2), sections 212.1 and 218.1 and Division IV.1 that is included in the cost to the other person of supplying the property or service to the financial institution; and

(3) Subsection 225.2(8) of the Act is repealed.

(4) Subsections (1) and (2) apply in respect of a reporting period of a person that ends on or after July 1, 2010.

(5) Subsection (3) is deemed to have come into force on July 1, 2010.

5. (1) The Act is amended by adding the following after section 225.2:

Definitions	225.3 (1) In this section, “exchange-traded fund”, “exchange-traded series”, “series” and “stratified investment plan” have the meaning prescribed by regulation.
Application to the Minister	(2) A selected listed financial institution that is an exchange-traded fund may apply to the Minister to use particular methods to determine, for a fiscal year that ends in a taxation year of the financial institution, <ul style="list-style-type: none"> (a) if the financial institution is a stratified investment plan, the financial institution’s percentages for each exchange-traded series of the financial institution, for each participating province and for the taxation year for the purposes of subsection 225.2(2); and (b) in any other case, the financial institution’s percentages for each participating province and for the taxation year for the purposes of subsection 225.2(2).
Form and manner of application	(3) An application made by a selected listed financial institution under subsection (2) is to be <ul style="list-style-type: none"> (a) made in prescribed form containing prescribed information, including <ul style="list-style-type: none"> (i) if the financial institution is a stratified investment plan, the particular method to be used for each exchange-traded series of the financial institution, and (ii) in any other case, the particular method to be used for the financial institution; and (b) filed by the financial institution with the Minister in prescribed manner on or before <ul style="list-style-type: none"> (i) the day that is 180 days before the first day of the fiscal year to which the application applies, or (ii) any later day that the Minister may allow.
Authorization	(4) On receipt of an application made under subsection (2), the Minister must <ul style="list-style-type: none"> (a) consider the application and authorize or deny the use of the particular methods; and (b) notify the selected listed financial institution in writing of the decision on or before <ul style="list-style-type: none"> (i) the later of <ul style="list-style-type: none"> (A) the day that is 180 days after receipt of the application, and (B) the day that is 180 days before the first day of the fiscal year to which the application applies, or (ii) any later day that the Minister may specify, if the day is set out in a written application filed by the financial institution with the Minister.
Effect of authorization	(5) For the purposes of this Part, if the Minister under subsection (4) authorizes the use of particular methods for a fiscal year of the selected listed financial institution, <ul style="list-style-type: none"> (a) despite Part 2 of the <i>Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations</i>,

	<p>(i) the financial institution's percentages for any participating province and for the taxation year in which the fiscal year ends that would, in the absence of this section, be determined under that Part are to be determined in accordance with those particular methods, and</p> <p>(ii) the financial institution's percentages for any exchange-traded series of the financial institution, for any participating province and for the taxation year in which the fiscal year ends that would, in the absence of this section, be determined under that Part are to be determined in accordance with those particular methods; and</p> <p>(b) the financial institution must consistently use those particular methods as indicated in the application throughout the fiscal year to determine the percentages referred to in paragraph (a).</p>
Revocation	<p>(6) An authorization granted under subsection (4) to a selected listed financial institution in respect of a fiscal year of the financial institution ceases to have effect on the first day of the fiscal year and, for the purposes of this Part and the <i>Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations</i>, is deemed never to have been granted, if</p> <p>(a) the Minister revokes the authorization and sends a notice of revocation to the financial institution at least 90 days before the last day of the fiscal year; or</p> <p>(b) the financial institution files in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information on or before the first day of the fiscal year.</p>
Definitions	<p>225.4 (1) The definitions in this subsection apply for the purposes of this section.</p>
"business input" « intrans d'entreprise »	"business input" has the meaning assigned by subsection 141.02(1).
"Canadian activity" « activité au Canada »	"Canadian activity" has the meaning assigned by section 217.
"exclusive input" « intrans exclusif »	"exclusive input" of a person means property or a service that is acquired or imported by the person for consumption or use directly and exclusively for the purpose of making taxable supplies for consideration or directly and exclusively for purposes other than making taxable supplies for consideration.
"pension entity" « entité de gestion »	"pension entity" has the meaning assigned by subsection 172.1(1).
"pension plan" « régime de pension »	"pension plan" has the meaning assigned by subsection 172.1(1).
Prescribed definitions	(2) In this section, "exchange-traded fund", "exchange-traded series", "individual", "investment plan", "non-stratified investment plan", "plan member", "private investment

plan”, “series”, “specified investor”, “stratified investment plan” and “unit” have the meaning prescribed by regulation.

Stratified
investment
plans

(3) If, at a particular time, a selected listed financial institution is a stratified investment plan and no election under subsection (6) in respect of a series of the financial institution is in effect, the following rules apply:

(a) for the purposes of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*,

(i) if the series is an exchange-traded series, all units of the series that are held, at the particular time, by a person that the financial institution knows is not resident in Canada at that time are deemed to be held at that time by a particular individual that is resident in Canada but not resident in any participating province,

(ii) if the series is not an exchange-traded series, all units of the series that are held, at the particular time, by an individual, or a specified investor in the financial institution, that the financial institution knows is not resident in Canada at that time are deemed to be held at that time by a particular individual that is resident in Canada but not resident in any participating province, and

(iii) the financial institution is deemed to know the country and province of residency of the particular individual referred to in subparagraph (i) or (ii);

(b) for the purposes of determining an input tax credit of the financial institution, any supply made by the financial institution in respect of units of the series that are held, at the particular time, by a person that is not resident in Canada is deemed to have been made to a person resident in Canada;

(c) for the purposes of the definitions “external charge” and “qualifying consideration” in section 217, any outlay made, or expense incurred, by the financial institution in respect of the units referred to in subparagraph (a)(i) or (ii) is deemed to be applicable to a Canadian activity of the financial institution; and

(d) no amount is to be included in determining an input tax credit of the financial institution in respect of a business input of the financial institution unless the business input

(i) is not acquired or imported in the course of any activity carried out by the financial institution relating to the series, and

(ii) is an exclusive input of the financial institution.

Non-stratified
investment
plans

(4) If, at a particular time, a selected listed financial institution is a non-stratified investment plan and no election under subsection (7) made by the financial institution is in effect, the following rules apply:

(a) for the purposes of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*,

(i) if the financial institution is an exchange-traded fund at the particular time, all units of the financial institution that are held, at the particular time, by a person that the financial institution knows is not resident in Canada at that time are deemed to be held

at that time by a particular individual that is resident in Canada but not resident in any participating province,

(ii) if the financial institution is not an exchange-traded fund at the particular time, all units of the financial institution that are held, at the particular time, by an individual, or a specified investor in the financial institution, that the financial institution knows is not resident in Canada at that time are deemed to be held at that time by a particular individual that is resident in Canada but not resident in any participating province, and

(iii) the financial institution is deemed to know the country and province of residency of the particular individual referred to in subparagraph (i) or (ii);

(b) for the purposes of determining an input tax credit of the financial institution, any supply made by the financial institution in respect of units of the financial institution that are held, at the particular time, by a person that is not resident in Canada is deemed to have been made to a person resident in Canada;

(c) for the purposes of the definitions “external charge” and “qualifying consideration” in section 217, any outlay made, or expense incurred, by the financial institution in respect of the units referred to in subparagraph (a)(i) or (ii) is deemed to be applicable to a Canadian activity of the financial institution; and

(d) no amount is to be included in determining an input tax credit of the financial institution in respect of a business input of the financial institution unless the business input is an exclusive input of the financial institution.

(5) If, at a particular time, a selected listed financial institution is an investment plan that is a pension entity of a pension plan or a private investment plan and no election under subsection (7) made by the financial institution is in effect, the following rules apply:

(a) for the purposes of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, all plan members of the financial institution that the financial institution knows are not resident in Canada at the particular time are deemed to be resident in Canada at that time but not resident in any participating province, and the financial institution is deemed to know the country and province of residency of those plan members;

(b) for the purposes of determining an input tax credit of the financial institution, any supply made by the financial institution in respect of the plan members referred to in paragraph (a) is deemed to have been made to a person resident in Canada;

(c) for the purposes of the definitions “external charge” and “qualifying consideration” in section 217, any outlay made, or expense incurred, by the financial institution in respect of the plan members referred to in paragraph (a) is deemed to be applicable to a Canadian activity of the person; and

(d) no amount is to be included in determining an input tax credit of the person in respect of a business input of the person unless the business input is an exclusive input of the person.

Election — Stratified investment plans	(6) A stratified investment plan may make an election in respect of a series of the investment plan to have subsection (3) not apply to the series, and that election is to be effective from the first day of a fiscal year of the investment plan.
Election — Other investment plans	(7) A person that is a non-stratified investment plan, a pension entity or a private investment plan may make an election to have subsections (4) and (5) not apply to the person, and that election is to be effective from the first day of a fiscal year of the person.
Form of election	<p>(8) An election made under subsection (6) or (7) by a person is to</p> <p>(a) be made in prescribed form containing prescribed information;</p> <p>(b) set out the first fiscal year of the person during which the election is to be in effect; and</p> <p>(c) be filed with the Minister on or before the first day of that first fiscal year or any later day that the Minister may allow.</p>
Cessation	<p>(9) An election made under subsection (6) or (7) by a person ceases to have effect on the earliest of</p> <p>(a) the first day of the fiscal year of the person in which the person ceases to be a selected listed financial institution,</p> <p>(b) in the case of an election under subsection (6), the first day of the fiscal year of the person in which the person ceases to be a stratified investment plan,</p> <p>(c) in the case of an election under subsection (7), the first day of the fiscal year of the person in which the person ceases to be an investment plan that is a non-stratified investment plan, a pension entity or a private investment plan, as the case may be, and</p> <p>(d) the day on which a revocation of the election becomes effective.</p>
Revocation	(10) A person that has made an election under subsection (6) or (7) may revoke the election, effective on the first day of a fiscal year of the person that begins at least five years after the election becomes effective, or on the first day of such earlier fiscal year as the Minister may allow on application of the person, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information no later than the day on which the revocation is to become effective.
Restriction	(11) If a revocation of an election made under subsection (6) or (7) becomes effective on a particular day, any subsequent election under that subsection is not a valid election unless the first day of the fiscal year of the person set out in the subsequent election is at least five years after the particular day.
	<p>(2) Subsection (1) applies in respect of any fiscal year of a person that ends on or after July 1, 2010 except that for any fiscal year that begins before March 1, 2011, paragraph 225.4(8)(c) of the Act, as enacted by subsection (1), is to be read as “be filed with the Minister on or before March 1, 2011 or any later day that the Minister may allow.”</p>

6. (1) Section 240 of the Act is amended by adding the following after subsection (1.1):

Prescribed selected listed financial institutions	(1.2) Every selected listed financial institution that is prescribed is required to be registered for the purposes of this Part.
Group registration of selected listed financial institutions	<p>(1.3) The following rules apply in respect of a prescribed group of selected listed financial institutions:</p> <p>(a) the group is required to be registered for the purposes of this Part;</p> <p>(b) each member of the group is deemed to be a registrant for the purposes of this Part; and</p> <p>(c) each member of the group may not apply for registration under subsection (2.1) or (3).</p>
Additional member of group	<p>(1.4) If a selected listed financial institution becomes, on a particular day, a member of an existing group that is required to be registered for the purposes of this Part or that is registered under this Subdivision, the following rules apply:</p> <p>(a) if the group is required to be registered, the financial institution must be included in the application for the registration of the group under subsection (2.2);</p> <p>(b) if the group is registered, the financial institution is required to be added to the group registration;</p> <p>(c) the financial institution is deemed to be a registrant for the purposes of this Part; and</p> <p>(d) the financial institution may not apply for registration under subsection (2.1) or (3).</p>
<p>(2) Subsection 240(2.1) of the Act is replaced by the following:</p>	
Application	<p>(2.1) A person required under <u>any of</u> subsections (1) to (1.2) to be registered <u>must</u> apply to the Minister for registration before the day that is <u>30</u> days after</p> <p>(a) in the case of a person required under subsection (1.1) to be registered in respect of a taxi business, the day the person first makes a taxable supply in Canada in the course of that business;</p> <p>(a.1) in the case of a selected listed financial institution required under subsection (1.2) to be registered, the day that is prescribed; and</p> <p>(b) in any other case, the day the person first makes a taxable supply in Canada, otherwise than as a small supplier, in the course of a commercial activity engaged in by the person in Canada.</p>
Application for group registration	(2.2) If a group of selected listed financial institutions is required under subsection (1.3) to be registered, a person that is prescribed in respect of the group must apply to the Minister for registration of the group before the day that is prescribed.

Application to be added to a registered group	<p>(2.3) If a selected listed financial institution is required under paragraph (1.4)(b) to be added to a group registration, the financial institution or the person that is prescribed in respect of the group for the purpose of subsection (2.2) must apply to the Minister for the financial institution to be added to the group registration before the day that is 30 days after the day the financial institution became a member of the group.</p>
Form and contents of application	<p>(3) Subsection 240(5) of the Act is replaced by the following:</p> <p>(5) An application for registration, <u>or an application to be added to a group registration, is to be made in prescribed form containing prescribed information and, in the case of an application for the registration of a group, the names of the members of the group and is to be filed with the Minister in prescribed manner.</u></p>
Registration	<p>(4) Subsections (1) to (3) are deemed to have come into force on July 1, 2010.</p> <p>7. (1) Subsection 241(1) of the Act is replaced by the following:</p> <p>241. (1) The Minister may register any person that applies for registration and, <u>upon doing so, must assign a registration number to the person and notify the person in writing of the registration number and the effective date of the registration.</u></p>
Group registration	<p>(1.1) If a person applies to register a group of selected listed financial institutions that is prescribed for the purposes of subsection 240(1.3), the Minister may register the group and, upon doing so, the following rules apply:</p> <p>(a) the Minister must assign a registration number to the group and notify in writing the person and each financial institution listed on the application of the registration number and the effective date of the group registration;</p> <p>(b) for each member of the group that is registered under this Subdivision on the day preceding the effective date, that registration is deemed, for the purposes of this Part, to be cancelled as of the effective date; and</p> <p>(c) each member of the group is deemed, for the purposes of this Part other than section 242, to be registered under this Subdivision as of the effective date of the group registration and to have a registration number that is the same as the registration number of the group.</p>
Addition of new member to group registration	<p>(1.2) If a person applies for a selected listed financial institution to be added to a group registration, the Minister may add the financial institution to the group registration and, upon doing so, the following rules apply:</p> <p>(a) the Minister must notify in writing the person and the financial institution of the effective date of the addition to the group registration;</p> <p>(b) if the financial institution is registered under this Subdivision on the day preceding the effective date, that registration of the financial institution is deemed, for the purposes of this Part, to be cancelled as of the effective date; and</p> <p>(c) the financial institution is deemed, for the purposes of this Part other than section 242, to be registered under this Subdivision as of the effective date and to have a registration number that is the same as the registration number of the group.</p>

(2) Subsection (1) is deemed to have come into force on July 1, 2010.

8. (1) Section 242 of the Act is amended by adding the following after subsection (1):

Cancellation
of group
registration

(1.1) The Minister may, after giving reasonable written notice to each particular person that is included in a group registration under this Subdivision and to each person that is prescribed in respect of the group for the purposes of subsection 240(2.2), cancel the registration of the group if the Minister is satisfied that the registration is not required for the purposes of this Part.

Cancellation
of group
registration

(1.2) The Minister must cancel the registration of a group in prescribed circumstances.

Removal of a
member of a
registered
group

(1.3) The Minister may, after giving reasonable written notice to a particular person that is included in a group registration under this Subdivision and to each person that is prescribed in respect of the group for the purposes of subsection 240(2.2), remove the particular person from the group registration if the Minister is satisfied that the particular person is not required to be included in the group registration for the purposes of this Part.

Removal of a
member of a
registered
group

(1.4) The Minister must remove a person from a group registration in prescribed circumstances.

(2) Subsection 242(3) of the Act is replaced by the following:

Notice of
cancellation or
variation

(3) If the Minister cancels or varies the registration of a person, the Minister must notify the person in writing of the cancellation or variation and its effective date.

Cancellation
of group
registration

(4) If the Minister cancels a group registration,

(a) the Minister must notify in writing each person that is included in the group registration and each person that is prescribed in respect of the group for the purposes of subsection 240(2.2) of the cancellation and its effective date; and

(b) each person that is included in the group registration is deemed, for the purposes of this Part, to no longer be registered under this Subdivision as of the effective date of the cancellation.

Removal of
person from a
group
registration

(5) If the Minister removes a particular person from a group registration,

(a) the Minister must notify in writing the particular person and each person that is prescribed in respect of the group for the purposes of subsection 240(2.2) of the removal and its effective date; and

(b) the particular person is deemed, for the purposes of this Part, to no longer be registered under this Subdivision as of the effective date of the removal.

9. (1) The Act is amended by adding the following after section 244:

Fiscal year — selected listed financial institution	<p>244.1 (1) If a person is a selected listed financial institution described in subparagraph 149(1)(a)(vi) or (ix) throughout a particular reporting period in a particular fiscal year of the person that begins in a particular calendar year, the following rules apply:</p> <p>(a) the fiscal years of the person are calendar years;</p> <p>(b) any election made by the person under section 244 ceases to have effect on the first day of the particular fiscal year; and</p> <p>(c) if the person was not a selected listed financial institution throughout the reporting period immediately before the particular reporting period, the particular fiscal year ends on the last day of the particular calendar year and paragraph (a) is only effective as of the first day of the calendar year that is immediately after the particular calendar year.</p>
Ceasing to be a selected listed financial institution	<p>(2) If subsection (1) applies to determine a fiscal year of a person and, as of the beginning of the following fiscal year of the person, the person is not a selected listed financial institution, that following fiscal year ends on the day on which it would end in the absence of this section.</p> <p>(2) Subsection (1) applies in respect of any fiscal year of a person that ends after 2010, except that in applying subsection 244.1(1) of the Act, as enacted by subsection (1), in respect of any fiscal year that begins in 2010, paragraph 244.1(1)(c) of the Act, as enacted by subsection (1), is to be read without reference to “if the person was not a selected listed financial institution throughout the reporting period immediately before the particular reporting period.”.</p>
Duration of election	<p>10. (1) Subsection 246(3) of the Act is replaced by the following:</p> <p>(3) An election made under this section by a person is <u>to remain in effect until the earlier of</u></p> <p>(a) the beginning of the day an election by the person under section 247 or 248 takes effect, <u>and</u></p> <p>(b) the day on which a revocation of the election by the person becomes effective.</p>
Revocation of election	<p>(4) A listed financial institution that has made an election under this section may revoke the election, effective on the first day of a fiscal year of the financial institution, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective or any later day that the Minister may allow.</p> <p>(2) Subsection (1) applies to any fiscal year that ends on or after July 1, 2010.</p> <p>11. (1) Subsection 247(2) of the Act is amended by striking out “and” at the end of paragraph (b), by adding “and” at the end of paragraph (c) and by adding the following after paragraph (c):</p> <p>(d) the day on which a revocation of the election by the person becomes effective.</p> <p>(2) Section 247 of the Act is amended by adding the following after subsection (2):</p>

Revocation of election

(3) A listed financial institution that has made an election under this section may revoke the election, effective on the first day of a fiscal year of the financial institution, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective or any later day that the Minister may allow.

(3) Subsections (1) and (2) apply to any fiscal year that ends on or after July 1, 2010.

12. (1) Subsection 261.3(2) of the Act is repealed and subsection 261.3(1) is renumbered as section 261.3.

(2) Subsection (1) is deemed to have come into force on July 1, 2010.

13. (1) Subsections 261.31(1) to (3) of the Act are replaced by the following:

Rebate for tax payable by investment plans, etc.

(2) If tax under subsection 165(2), sections 212.1 or 218.1 or Division IV.1 is payable by a listed financial institution described in subparagraph 149(1)(a)(vi) or (ix), other than a selected listed financial institution, or by a prescribed person and prescribed conditions are satisfied, the Minister must, subject to section 261.4, pay a rebate to the financial institution or person equal to the amount determined in prescribed manner.

Election by segregated fund and insurer

(3) An insurer and a segregated fund of the insurer may elect, in prescribed form containing prescribed information, to have the insurer pay to, or credit in favour of, the segregated fund the amount of any rebates payable to the segregated fund under subsection (2) in respect of supplies made by the insurer to the segregated fund.

(2) Subsection 261.31(5) of the Act is replaced by the following:

Application to insurer

(5) An insurer may pay or credit to or in favour of a segregated fund of the insurer the amount of a rebate under subsection (2) in respect of a taxable supply made by the insurer to the segregated fund that, if the segregated fund complied with section 261.4 in relation to the supply, would be payable to the segregated fund if

(a) the insurer and the segregated fund have filed an election made under subsection (3) that is in effect when tax in respect of the supply becomes payable; and

(b) the segregated fund, within one year after the day tax becomes payable in respect of the supply, submits to the insurer an application for the rebate in prescribed form containing prescribed information.

(3) Subsections (1) to (3) apply in respect of any rebate that is in respect of tax that became payable or was paid without having become payable on or after July 1, 2010.

14. (1) Section 261.4 of the Act is renumbered as subsection 261.4(1) and is amended by adding the following:

Exception for investment plans, etc.

(2) A rebate under any of sections 261.1 to 261.3 in respect of tax paid or payable by a listed financial institution described in subparagraph 149(1)(a)(vi) or (ix) must not be paid.

(2) Subsection (1) applies in respect of any rebate that is in respect of tax that became payable or was paid without having become payable on or after July 1, 2010.

15. (1) Section 263.01 of the Act is amended by adding the following after subsection (3):

Exception —
prescribed
person

(4) Despite subsection (1), a rebate under section 261.31 in respect of a prescribed amount of tax may be paid to a person that is prescribed for the purpose of subsection 261.31(2).

(2) Subsection (1) is deemed to have come into force on July 1, 2010.

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JOBS AND ECONOMIC GROWTH ACT

16. (1) Subsection 58(2) of the *Jobs and Economic Growth Act* is amended by striking out “and” at the end of paragraph (a) and by adding the following after paragraph (a):

(a.1) if a person that is a participating employer of a pension plan acquires property or a service for the purpose of making a supply of all or part of the property or service to a pension entity of the pension plan but not for the purpose of making a supply of any part of the property or service to a pension entity of the pension plan after June 2010, the amount determined for B in the formula in paragraph 172.1(5)(c) of the Act, as enacted by subsection (1), for Nova Scotia in respect of a taxable supply of all or part of the property or service that is deemed to have been made under paragraph 172.1(5)(a) of the Act, as enacted by subsection (1), on the last day of a fiscal year of the person is to be determined as if the tax rate for Nova Scotia on the last day of the fiscal year were 8%; and

(2) The formula in paragraph 58(2)(b) of the Act and the descriptions in that formula are replaced by the following:

$$E \times [(F \times G/H) - (I \times J/H)]$$

where

E is the amount determined for C,

F is the provincial factor in respect of the pension plan and the participating province for the particular fiscal year,

G is

(i) if the participating province is Ontario or British Columbia, the number of days in the particular fiscal year that are after June 2010, and

(ii) in any other case, the number of days in the particular fiscal year,

H is the number of days in the particular fiscal year,

I is the amount (expressed as a percentage) that would be the provincial factor in respect of the pension plan and the participating province for the particular fiscal year if the tax rate for the participating province on the last day of the fiscal year were 2%, and

J is

(i) if the participating province is Nova Scotia, the number of days in the particular fiscal year that are before July 2010, and

(ii) in any other case, zero; and

17. Section 64 of the Act is amended by adding the following after subsection (7):

(8) Despite subsections (5) and (6), the amount of tax payable by a person under subsection 218.1(1.2) of the Act, as enacted by subsections (2) and (3), for the specified year of the person that begins before July 1, 2010 and ends on or after that day and for Nova Scotia or the Nova Scotia offshore area is equal to the amount determined by the formula

$$A - [0.2 \times A \times (B/C)]$$

where

A is the amount that, in the absence of this subsection, would be tax payable under subsection 218.1(1.2) of the Act, as enacted by subsections (2) and (3), for the specified year and for Nova Scotia or the Nova Scotia offshore area, as the case may be;

B is the number of days in the specified year that are before July 2010; and

C is the number of days in the specified year.

18. The formula in subsection 75(4) of the Act and the descriptions in that formula are replaced by the following:

$$A \times B \times [(C/D) - ((2\% \times E/F)/D)] \times [(F - G)/F]$$

where

A is the pension rebate amount of the pension entity for the claim period,

B is the pension entity's percentage for the participating province for the taxation year for the purposes of **C** in the formula in subsection 225.2(2),

C is the tax rate for the participating province,

D is the rate set out in subsection 165(1),

E is

(i) if the participating province is Nova Scotia, the number of days in the claim period that are before July 1, 2010, and

(ii) in any other case, zero,

F is the number of days in the claim period, and

G is

(i) if the participating province is Ontario or British Columbia, the number of days in the claim period that are before July 1, 2010, and

(ii) in any other case, zero; and