

## LEGISLATIVE PROPOSALS RELATING TO INCOME TAX

## INCOME TAX ACT

**1. (1) Paragraph 12(1)(j) of the *Income Tax Act* is replaced by the following:**Dividends  
from resident  
corporations

(j) any amount of a dividend in respect of a share of the capital stock of a corporation resident in Canada that is required by subdivision h to be included in computing the taxpayer's income for the year;

**(2) Subsection (1) applies after Announcement Date.****2. (1) The descriptions of A and B in subsection 40(3.11) of the Act are replaced by the following:**

A is the total of

(a) all amounts required by subsection 53(2) to be deducted in computing the adjusted cost base to the member of the interest in the partnership at that time, and

(b) where the member is a member of a professional partnership, and that time is the end of the fiscal period of the partnership, the amount referred to in subparagraph 53(2)(c)(i) in respect of the taxpayer for that fiscal period, and

B is the total of

(a) the cost to the member of the interest determined for the purpose of computing the adjusted cost base to the member of the interest at that time,

(b) all amounts required by subsection 53(1) to be added to the cost to the member of the interest in computing the adjusted cost base to the member of the interest at that time, and

(c) where the member is a member of a professional partnership, and that time is the end of the fiscal period of the partnership, the amount referred to in subparagraph 53(1)(e)(i) in respect of the taxpayer for that fiscal period.

**(2) Section 40 of the Act is amended by adding the following after subsection (3.11):**Meaning of  
"professional  
partnership"

(3.111) In this section, "professional partnership" means a partnership through which one or more persons carry on the practice of a profession that is governed or regulated under a law of Canada or a province.

**(3) Sections (1) and (2) apply to fiscal periods that end after November 2001.****3. (1) Section 42 of the Act is replaced by the following:**Dispositions  
subject to  
warranty**42. (1) For the purposes of this subdivision,**

(a) an amount received or receivable by a person or partnership (referred to in this subsection as the "vendor"), as the case may be, as consideration for a warranty, covenant or other conditional or contingent obligation given or incurred by the vendor in respect of a property (in this section referred to as the "subject property") disposed of by the vendor,

Meaning of  
“specified  
date”

(i) if it is received or receivable on or before the specified date, is deemed to be received as consideration for the disposition by the vendor of the subject property (and not to be an amount received or receivable by the vendor as consideration for the obligation) and is to be included in computing the vendor’s proceeds of disposition of the subject property for the taxation year or fiscal period in which the disposition occurred, and

(ii) in any other case, is deemed to be a capital gain of the vendor from the disposition of a property by the vendor that occurs at the earlier of the time when the amount is received or becomes receivable; and

(b) an outlay or expense paid or payable by the vendor under a warranty, covenant or other conditional or contingent obligation given or incurred by the vendor in respect of the subject property disposed of by the vendor,

(i) if it is paid or payable on or before the specified date, is deemed to reduce the consideration for the disposition by the vendor of the subject property (and not to be an outlay or expense paid or payable by the vendor under the obligation) and is to be deducted in computing the vendor’s proceeds of disposition of the subject property for the taxation year or fiscal period in which the disposition occurred, and

(ii) in any other case, is deemed to be a capital loss of the vendor from the disposition of a property by the vendor that occurs at the earlier of the time when the outlay or expense is paid or becomes payable.

(2) In subsection (1), “specified date” means,

(a) if the vendor is a partnership, the last day of the vendor’s fiscal period in which the vendor disposed of the subject property; and

(b) in any other case, the vendor’s filing-due date for the vendor’s taxation year in which the vendor disposed of the subject property.

**(2) Subsection (1) applies to taxation years and fiscal periods that end after February 27, 2004 except that, in its application to taxation years and fiscal periods that end before Announcement Date, section 42 of the Act, as enacted by subsection (1), shall be read as follows:**

**42.** For the purposes of this subdivision,

(a) an amount received or receivable by a taxpayer in a taxation year as consideration for a warranty, a covenant or another conditional or contingent obligation given or incurred by the taxpayer in respect of a property disposed of, at any time, by the taxpayer

(i) is, if the amount is received or becomes receivable on or before the taxpayer’s filing-due date for the taxpayer’s taxation year in which the taxpayer disposed of the property, to be included in computing the taxpayer’s proceeds of disposition of the property, and

(ii) is, if the amount is received or becomes receivable after that filing-due date, deemed to be a capital gain of the taxpayer from the disposition, by the taxpayer of the property, that occurs at the time when the amount is received or becomes receivable; and

(b) an outlay or expense paid or payable by the taxpayer in a taxation year under a warranty, covenant or another conditional or contingent obligation given or incurred by the taxpayer in respect of property disposed of, at any time, by the taxpayer

(i) is, if the amount is paid or becomes payable on or before the taxpayer's filing-due date for the taxpayer's taxation year in which the taxpayer disposed of the property, to be deducted in computing the taxpayer's proceeds of disposition of the property, and

(ii) is, if the amount is paid or becomes payable after that filing-due date, deemed to be a capital loss of the taxpayer from the disposition, by the taxpayer of the property, that occurs at the time when the amount is paid or becomes payable.

**4. (1) Clause 53(1)(e)(i)(A.1) of the Act is repealed.**

**(2) Subparagraph 53(1)(e)(i) of the Act, as amended by subsection (1), is amended by adding the following after clause (A):**

(A.1) subparagraph 39(1)(a)(i.1) in respect of an object referred to in that subparagraph that is not the subject of a gifting arrangement, as defined in subsection 237.1(1), nor a property that is a tax shelter,

**(3) Paragraph 53(1)(e) of the Act is amended by adding the following after subparagraph (viii):**

(viii.1) an amount deemed, before that time, by subsection 59(1.1) to be proceeds of disposition receivable by the taxpayer in respect of the disposition of a foreign resource property,

**(4) Clause 53(2)(c)(i)(A.1) of the Act is repealed.**

**(5) Subsections (1) and (4) apply in respect of amounts that became payable after December 20, 2002.**

**(6) Subsection (2) applies in respect of the disposition of an object made after 2003.**

**(7) Subsection (3) applies for fiscal periods of a partnership that begin after 2000.**

**5. (1) Section 60 of the Act is amended by adding the following after paragraph (n):**

(n.1) an amount paid by the taxpayer in the year to a registered pension plan if

(i) the taxpayer is an individual,

(ii) the amount is paid as

(A) a repayment of an amount received from the plan that was included in computing the taxpayer's income for the year or a preceding year, where it is reasonable to

Repayment of  
pension  
benefits

consider that the amount was paid under the plan as a consequence of an error and not as an entitlement to benefits, or

(B) interest in respect of a repayment described in clause (A), and

(iii) no portion of the amount is deductible under paragraph 8(1)(m) in computing the taxpayer's income for the year.

**(2) Subsection (1) applies to the 2009 and subsequent taxation years.**

**6. (1) Subsection 66(18) of the Act is replaced by the following:**

(18) For the purposes of this section, subsection 21(2), sections 59.1 and 66.1 to 66.7, paragraph (d) of the definition "investment expense" in subsection 110.6(1), the definition "pre-production mining expenditure" in subsection 127(9) and the descriptions of C and D in subsection 211.91(1), where a person's share of an outlay or expense made or incurred by a partnership in a fiscal period of the partnership is included in respect of the person under paragraph (d) of the definition "foreign exploration and development expenses" in subsection (15), paragraph (h) of the definition "Canadian exploration expense" in subsection 66.1(6), paragraph (f) of the definition "Canadian development expense" in subsection 66.2(5), paragraph (e) of the definition "foreign resource expense" in subsection 66.21(1) or paragraph (b) of the definition "Canadian oil and gas property expense" in subsection 66.4(5), the portion of the outlay or expense so included is deemed, except for the purposes of applying the definitions "foreign exploration and development expenses", "Canadian exploration expense", "Canadian development expense", "foreign resource expense" and "Canadian oil and gas property expense" in respect of the person, to be made or incurred by the person at the end of that fiscal period.

**(2) Subsection (1) applies to expenses incurred in fiscal periods that begin after 2001.**

**7. (1) Paragraph (f) of the definition "Canadian exploration expense" in subsection 66.1(6) of the Act is amended by deleting "or" at the end of subparagraph (v) and by replacing subparagraph (vi) with the following:**

(v.1) any expense described in subparagraphs (i), (iii) or (iv) in respect of the mineral resource, incurred before a new mine in the mineral resource comes into production in reasonable commercial quantities, that results in revenue or can reasonably be expected to result in revenue earned before the new mine comes into production in reasonable commercial quantities, except to the extent that the total of all such expenses exceeds the total of those revenues,

(vi) any expense that may reasonably be considered to be related to a mine in the mineral resource that has come into production in reasonable commercial quantities or to be related to a potential or actual extension of the mine,

**(2) Paragraph (g) of the definition "Canadian exploration expense" in subsection 66.1(6) of the Act is replaced by the following:**

(g) any expenses incurred by the taxpayer after November 16, 1978 for the purpose of bringing a new mine in a mineral resource in Canada into production in reasonable commercial quantities and incurred before the new mine comes into production in such quan-

tities, including an expense for clearing, removing overburden, stripping, sinking a mine shaft or constructing an adit or other underground entry, but not including any expense that results in revenue or can reasonably be expected to result in revenue earned before the new mine comes into production in reasonable commercial quantities, except to the extent that the total of all such expenses exceeds the total of those revenues,

**(3) Paragraph (k.2) of the definition “Canadian exploration expense” in subsection 66.1(6) of the Act is repealed.**

**(4) The description of B in the definition “cumulative Canadian exploration expense” in subsection 66.1(6) of the Act is replaced by the following:**

B is the total of all amounts that were, because of subsection (1), included in computing the amount referred to in paragraph 59(3.2)(b) for the taxpayer’s taxation years ending before that time,

**(5) Section 66.1 of the Act is amended by adding the following after subsection 66.1(6.1):**

(6.2) An expense of a taxpayer that is not included in paragraph (f) or (g) of the definition “Canadian exploration expense” in subsection 66.1(6) because the taxpayer earned revenue from a mine in a mineral resource is deemed, for the purposes of this Part, not to be an outlay or payment described in paragraph 18(1)(b).

**(6) Subsections (1) to (3) and (5) apply in respect of expenses incurred after Announcement Date.**

**(7) Subsection (4) applies to taxation years that end after Announcement Date.**

**8. (1) The description of B in the definition “cumulative Canadian development expense” in subsection 66.2(5) of the Act is replaced by the following:**

B is the total of all amounts that were because of subsection (1) included in computing the amount referred to in paragraph 59(3.2)(c) for taxation years ending before that time,

**(2) Subsection (1) applies to taxation years that end after Announcement Date.**

**9. (1) The description of B in the definition, “cumulative foreign resource expense” in subsection 66.21(1) of the Act is replaced by the following:**

B is the total of all amounts included in computing the amount referred to in paragraph 59(3.2)(c.1) in respect of that country, for taxation years that ended before the particular time and at a resident time;

**(2) Subsection (1) applies to taxation years that end after Announcement Date.**

**10. (1) Subsection 66.7(16) of the Act is replaced by the following:**

(16) Where at any time a Canadian resource property or a foreign resource property is acquired by a person in circumstances in which none of subsections (1) to (5), nor subsection 29(25) of the *Income Tax Application Rules*, apply, every person who was an original owner or predecessor owner of the property before that time is, for the purpose of applying those subsections to or in respect of the person or any other person who after that time acquires

Deductible  
Expense

Non-successor  
acquisitions

the property, deemed after that time not to be an original owner or predecessor owner of the property before that time.

**(2) Subsection (1) applies to property acquired after Announcement date.**

**11. (1) Paragraph 66.8(3)(a) of the Act is replaced by the following:**

(a) the expression “limited partner” of a partnership has the meaning that would be assigned by subsection 96(2.4), if in subsection 96(2.5) each reference to

- (i) “February 25, 1986” were a reference to “June 17, 1987”,
- (ii) “February 26, 1986” were a reference to “June 18, 1987”,
- (iii) “January 1, 1987” were a reference to “January 1, 1988”,
- (iv) “June 12, 1986” were a reference to “June 18, 1987”, and
- (v) “prospectus, preliminary prospectus or registration statement” were a reference to “prospectus, preliminary prospectus, registration statement, offering memorandum or notice that is required to be filed before any distribution of securities may commence”;

(a.1) the expression “at-risk amount” of a taxpayer in respect of a partnership has the meaning that would be assigned by subsection 96(2.2) if paragraph 96(2.2)(c) read as follows:

(c) all amounts each of which is an amount owing at that time to the partnership, or to a person or partnership not dealing at arm’s length with the partnership, by the taxpayer or by a person or partnership not dealing at arm’s length with the taxpayer, other than any amount deducted under subparagraph 53(2)(c)(i.3) in computing the adjusted cost base, or under section 143.2 in computing the cost, to the taxpayer of the taxpayer’s partnership interest at that time, or any amount owing by the taxpayer to a person in respect of which the taxpayer is a subsidiary wholly-owned corporation or where the taxpayer is a trust, to a person that is the sole beneficiary of the taxpayer, and;

**(2) Subsection (1) applies to taxation years that end after 2003.**

**12. (1) The portion of subsection 67.1(1.1) of the Act before paragraph (a) is replaced by the following:**

(1.1) An amount paid or payable in respect of the consumption of food or beverages by a long-haul truck driver during an eligible travel period of the driver is deemed to be the amount determined by multiplying the specified percentage in respect of the amount so paid or payable by the lesser of

**(2) Subsection (1) applies to amounts that are paid, or become payable, after March 18, 2007.**

**13. (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, or any eligible capital property in respect of a fishing or farming business carried on in Canada by the taxpayer;

Meal Expenses  
for long-haul  
truck drivers

**(2) Subsection (1) applies to dispositions of property that occur after May 1, 2006, other than a disposition in respect of which a taxpayer has made a valid election under subsection 11(5) of the *Budget Implementation Act, 2006, No. 2*.**

Salary deferral  
leave plans

**14. (1) Subsection 81(1) of the Act is amended by deleting “or” at the end of paragraph (q), by adding “or” at the end of paragraph (r) and by adding the following after paragraph (r):**

(s) an amount paid to the taxpayer in the year under an arrangement described in paragraph 6801(a) of the *Income Tax Regulations* to the extent that the amount may reasonably be considered to be attributable to amounts that were

(i) included in the taxpayer’s income for a preceding taxation year and were income, interest or other additional amounts, described in subparagraph 6801(a)(iv) of the *Income Tax Regulations*, and

(ii) re-contributed by the taxpayer under the arrangement in a preceding taxation year.

**(2) Subsection (1) applies to the 2000 and subsequent taxation years.**

**15. (1) Subsection 84(7) of the Act is replaced by the following:**

When  
dividend  
payable

(7) A dividend that is deemed by this section or section 84.1, 128.1 or 212.1 to have been paid at a particular time is deemed, for the purposes of this subdivision and sections 131 and 133, to have become payable at that time.

**(2) Subsection (1) applies to dividends deemed to have been paid after February 23, 1998.**

**16. (1) Section 85.1 of the Act is amended by adding the following after subsection (2.1):**

Issuance  
deemed made  
to vendor

(2.2) For the purposes of subsection (1), if a purchaser issues shares of a class of its capital stock (in this subsection referred to as “purchaser shares”) to a trust under a court-approved plan or scheme of arrangement in consideration for which a vendor disposes of exchanged shares that trade on a designated stock exchange to the purchaser solely for purchaser shares that are widely traded on a designated stock exchange immediately after and as part of completion of the plan or scheme of arrangement, the issuance to the trust is deemed to be an issuance to the vendor.

**(2) Section 85.1 of the Act is amended by adding the following after subsection (6):**

Issuance  
deemed made  
to vendor

(6.1) For the purposes of subsection (5), if a foreign purchaser issues shares of a class of its capital stock (in this subsection referred to as “foreign purchaser shares”) to a trust under a court-approved plan or scheme of arrangement in consideration for which a vendor disposes of exchanged foreign shares that trade on a designated stock exchange to the purchaser solely for foreign purchaser shares that are widely traded on a designated stock exchange immediately after and as part of completion of the plan or scheme of arrangement, the issuance to the trust is deemed to be an issuance to the vendor.

**(3) Subsections (1) and (2) apply to share exchanges made after June 2005 except that those subsections do not apply to a particular share exchange of a taxpayer that**

occurs before Announcement Date if, within six months of being advised by the Minister of National Revenue that subsection (1) or (2), as the case may be, applies to the exchange, the taxpayer elects not to have that subsection apply to the exchange.

**17. (1) The portion of paragraph (a) of the definition “qualified farm property” before subparagraph (i) in subsection 110.6(1) of the Act is replaced by the following:**

(a) real or immovable property that was used in the course of carrying on the business of farming in Canada by,

**(2) The portion of paragraph (a) of the definition “qualified fishing property” before subparagraph (i) in subsection 110.6(1) of the Act is replaced by the following:**

(a) real or immovable property or a fishing vessel that was used in the course of carrying on the business of fishing in Canada by,

**(3) Paragraphs 110.6(1.3)(a) and (b) of the Act are replaced by the following:**

(a) the following apply in respect of the property or property for which the property was substituted (in this paragraph referred to as “the property”),

(i) the property was owned throughout the period of at least 24 months immediately preceding that time by one or more of

(A) the individual, or a spouse, common-law partner, child or parent of the individual,

(B) a partnership, an interest in which is an interest in a family farm partnership of the individual or of the individual’s spouse or common-law partner,

(C) if the individual is a personal trust, the individual from whom the trust acquired the property or a spouse, common-law partner, child or parent of that individual, or

(D) a personal trust from which the individual or a child or parent of the individual acquired the property; and

(ii) either

(A) in at least two years while the property was owned by one or more persons referred to in subparagraph (i),

(I) the gross revenue of a person (in this subclause referred to as the “operator”) referred to in subparagraph (i) from the farming business referred to in subclause (II) for the period during which the property was owned by a person described in subparagraph (i) exceeded the income of the operator from all other sources for that period, and

(II) the property was used principally in a farming business carried on in Canada in which an individual referred to in subparagraph (i), or where the individual is a personal trust, a beneficiary of the trust, was actively engaged on a regular and continuous basis, or

(B) throughout a period of at least 24 months while the property was owned by one or more persons or partnerships referred to in subparagraph (i), the property was used

by a corporation referred to in subparagraph (a)(iv) of the definition “qualified farm property” in subsection (1) or by a partnership referred to in subparagraph (a)(v) of that definition in a farming business in which an individual referred to in any of subparagraphs (a)(i) to (iii) of that definition was actively engaged on a regular and continuous basis; or

**(4) Paragraph 110.6(1.3)(c) of the Act is renumbered as paragraph 110.6(1.3)(b).**

**(5) Subsections (1) and (2) apply to dispositions of property that occur after May 1, 2006.**

**(6) Subsections (3) and (4) apply to dispositions of property that occur after Announcement Date.**

**18. (1) Subsection 112(2.1) of the Act is replaced by the following:**

No deduction  
permitted

(2.1) No deduction may be made under subsection (1) or (2) in computing the taxable income of a specified financial institution in respect of a dividend received by it on a share that was, at the time the dividend was received, a term preferred share, other than a dividend on a share of the capital stock of a corporation that was not acquired in the ordinary course of the business carried on by the institution, and for the purposes of this subsection, where a restricted financial institution received the dividend on a share of the capital stock of a mutual fund corporation or an investment corporation at any time after the mutual fund or investment corporation has elected pursuant to subsection 131(10) not to be a restricted financial institution, the share is deemed to be a term preferred share acquired in the ordinary course of business.

**(2) The portion of paragraph 112(2.2)(a) before subparagraph (i) is replaced by the following:**

(a) a person or partnership (in this subsection and subsection (2.21) referred to as the “guarantor”) that is a specified financial institution or a specified person in relation to a specified financial institution, but that is not the issuer of the share or an individual other than a trust, is, at or immediately before the time the dividend was received, obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking (in this subsection and subsections (2.21) and (2.22) referred to as a “guarantee agreement”), including any guarantee covenant or agreement to purchase or repurchase the share and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the particular corporation or any specified person in relation to the particular corporation given to ensure that

**(3) Subsections (1) and (2) apply to dividends received on or after Announcement Date.**

**19. (1) The definition “qualified Canadian transit organization” in subsection 118.02(1) of the Act is replaced by the following:**

“qualified Canadian transit organization”  
« organisme de transport canadien admissible »

“qualified Canadian transit organization” means a person authorised, under a law of Canada or a province, to carry on in Canada a business that is the provision of public commuter transit services, which is carried on through a permanent establishment (as defined by regulation) in Canada.

**(2) Subsection (1) applies to the 2009 and subsequent taxation years.**

**20. Paragraph 118.2(2)(i) of the Act is replaced by the following:**

(i) for, or in respect of, an artificial limb, an iron lung, a rocking bed for poliomyelitis victims, a wheel chair, crutches, a spinal brace, a brace for a limb, an ileostomy or colostomy pad, a truss for hernia, an artificial eye, a laryngeal speaking aid, an aid to hearing, an artificial kidney machine, phototherapy equipment for the treatment of psoriasis or other skin disorders, or an oxygen concentrator, for the patient;

**21. (1) Paragraph 118.3(4)(b) of the Act is replaced by the following:**

(b) if the information referred to in paragraph (a) is provided by a person referred to in paragraph (1)(a.2) or (a.3), the information so provided is deemed to be included in a certificate in prescribed form.

**(2) Subsection (1) applies to the 2005 and subsequent taxation years.**

**22. (1) The definition “eligible salary and wages” in subsection 127(9) of the Act is replaced by the following:**

“eligible salary and wages”  
« traitement et salaire admissibles »

“eligible salary and wages” payable by a taxpayer to an eligible apprentice means the amount, if any, that is the salary and wages payable by the taxpayer to the eligible apprentice in respect of the first 24 months of the apprenticeship (other than a qualified expenditure incurred by the taxpayer in a taxation year, remuneration that is based on profits, bonuses, amounts described in section 6 or 7, and amounts deemed to be incurred by subsection 78(4));

**(2) Paragraph (b) of the definition “pre-production mining expenditure” in subsection 127(9) of the Act is replaced by the following:**

(b) is not an expense that

(i) was renounced under subsection 66(12.6) to the taxable Canadian corporation except where the corporation is, on the effective date of the renunciation,

(A) a corporation that would be a “principal business corporation”, as defined in subsection 66(15), if that definition were read without reference to its paragraphs (a), (a.1), (f), (h) and (i), and

(B) the sole shareholder of the corporation that renounced the expenditure; or

(ii) is a member’s share of an expense incurred by a partnership unless the expense was deemed by subsection 66(18) to have been made or incurred at the end of the fiscal period of the partnership by the member and throughout the fiscal period of the partnership in which the expense was incurred

(A) each member of the partnership would (otherwise than because of being a member of the partnership) be a “principal-business corporation” as defined in subsection 66(15) of the Act, if that definition were read without reference to its paragraphs (a), (a.1), (f), (h) and (i), and

(B) the corporation is a member of the partnership at the time the expenditure is incurred and would not be a specified member of the partnership if the definition “specified member” in subsection 248(1) were read without reference to its subparagraph (b)(ii);

**(3) Subsection (1) applies to taxation years that end after Announcement Date.**

**(4) Subsection (2) applies to the 2003 and subsequent taxation years.**

**23. (1) Subsection 127.4(6) 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) nil, where the share is issued in exchange for another share of the corporation.

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

**24. Subparagraph 127.52(1)(h)(i) of the Act is replaced by the following:**

(i) the amounts deducted under any of subsections 110(2), 110.6(2), (2.1), (2.2) and (12) and 110.7(1),

**25. (1) Paragraph 127.531(a) of the Act is replaced by the following:**

(a) an amount deducted under subsection 118(1), (2) or (10), 118.01(2), 118.02(2), 118.03(2) or 118.3(1) or any of sections 118.5 to 118.7 and 119 in computing the individual’s tax payable for the year under this Part; or

**(2) Paragraph 127.531(a) of the Act, as amended by subsection (1), is replaced by the following:**

(a) an amount deducted under subsection 118(1), (2) or (10), 118.01(2), 118.02(2), 118.03(2) or 118.3(1), any of sections 118.5 to 118.7 and 119 or subsection 127(1) in computing the individual’s tax payable for the year under this Part; or

**(3) Subsection (1) applies to dispositions made after December 23, 1998 for individuals who ceased to be resident in Canada after October 1, 1996.**

**(4) Subsection (2) applies to the 2009 and subsequent taxation years.**

**26. (1) Subparagraph 128(2)(g)(iii) of the Act is replaced by the following:**

(iii) the individual’s unused tuition, textbook and education tax credits at the end of the last taxation year that ended before that time is deemed to be nil;

**(2) Subsection (1) applies to the 2006 and subsequent taxation years.**

**27. (1) The definition “holder” in subsection 146.2(1) of the Act is amended by deleting “and” at the end of paragraph (a), by adding “and” at the end of paragraph (b) and by adding the following after paragraph (b):**

(c) at and after the death of a holder described in paragraph (b) or in this paragraph, the holder's survivor, if the survivor acquires

(i) all of the holder's rights as the holder of the arrangement, and

(ii) to the extent it is not included in the rights described in subparagraph (i), the unconditional right to revoke any beneficiary designation made, or similar direction imposed, by the holder under the arrangement or relating to property held in connection with the arrangement.

**(2) Subsection (1) applies to the 2009 and subsequent taxation years.**

**28. (1) The portion of paragraph (a) of the definition "compensation" in subsection 147.1(1) of the Act that is after subparagraph (ii) and before subparagraph (iii) is replaced by the following:**

that is required (or that would be required but for paragraph 81(1)(a) as it applies with respect to the *Indian Act* or the *Foreign Missions and International Organizations Act*) by section 5 or 6 to be included in computing the individual's income for the year, except such portion of the amount as

**(2) Subsection (1) applies after 1990.**

**29. (1) The portion of subsection 147.2(7) of the Act before paragraph (a) is replaced by the following:**

Letter of credit (7) For the purposes of this section and any regulations made under subsection 147.1(18) in respect of eligible contributions, an amount paid to a registered pension plan by the issuer of a letter of credit issued in connection with an employer's funding obligations under a defined benefit provision of the plan is deemed to be an eligible contribution made to the plan in respect of the provision by the employer with respect to the employer's employees or former employees, if

**(2) Section 147.2 of the Act is amended by adding the following after subsection (7):**

Former employee of predecessor employer (8) For the purposes of this section and any regulations made under subsection 147.1(18) in respect of eligible contributions, a former employee of a predecessor employer (as defined by regulation) of a participating employer in relation to a pension plan is deemed to be a former employee of the participating employer in relation to the plan if

(a) the former employee would not otherwise be an employee or former employee of the participating employer; and

(b) benefits are provided to the former employee under a defined benefit provision of the plan in respect of periods of employment with the predecessor employer.

**(3) Subsection (1) applies after Announcement Date.**

**(4) Subsection (2) applies to contributions made after 1990.**

**30. (1) Paragraph 147.3(6)(b) of the Act is replaced by the following:**

(b) is transferred on behalf of a member who is entitled to the amount as a return of contributions made (or deemed by regulation to have been made) by the member under a

defined benefit provision of the plan before 1991, or as interest (computed at a rate not exceeding a reasonable rate) in respect of those contributions; and

**(2) Subsection (1) applies to transfers that occur after 1999.**

**31. (1) Clause 149(1)(o.2)(iii)(B) of the Act is replaced by the following:**

(B) that had not accepted deposits or issued bonds, notes, debentures or similar obligations, and

**(2) Subsection (1) applies to taxation years that end after February 21, 1994.**

**32. (1) Subsection 152(4.3) of the Act is replaced by the following:**

Consequential  
assessment

(4.3) Notwithstanding subsections (4), (4.1) and (5), where the result of an assessment or a decision on an appeal is to change a particular balance of a taxpayer for a particular taxation year, the Minister may, or where the taxpayer so requests in writing, shall, before the later of the expiration of the normal reassessment period in respect of a subsequent taxation year and the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the particular year, reassess the tax, interest or penalties payable by the taxpayer, redetermine an amount deemed to have been paid or to have been an overpayment by the taxpayer, or modify the amount of a refund or other amount payable to the taxpayer, under this Part in respect of the subsequent taxation year, but only to the extent that the reassessment, redetermination or modification can reasonably be considered to relate to the change in the particular balance of the taxpayer for the particular year.

**(2) Paragraph 152(6)(c.1) of the Act is repealed.**

**(3) Section 152 of the Act is amended by adding the following after subsection (6.2):**

Reassessment  
for section 119  
credit

(6.3) If a taxpayer has filed for a particular taxation year the return of income required by section 150 and an amount is subsequently claimed by the taxpayer, or on the taxpayer's behalf, for the particular year as a deduction under section 119 in respect of a disposition in a subsequent taxation year, and the taxpayer files with the Minister a prescribed form amending the return on or before the filing-due date of the taxpayer for the subsequent taxation year, the Minister shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

**(4) Subsection (1) applies to reassessments, redeterminations and modifications in respect of taxation years that relate to changes in balances for other taxation years as a result of assessments made, or decisions on appeal rendered, after Announcement Date.**

**(5) Subsections (2) and (3) apply to taxation years that end after October 1, 1996, except that, for taxation years that end before the day on which this Act is assented to, subsection 152(6.3) of the Act, as enacted by subsection (3), shall be read as follows:**

(6.3) If a taxpayer has filed for a particular taxation year the return of income required by section 150 and an amount is subsequently claimed by the taxpayer, or on the taxpayer's

behalf, for the particular year as a deduction under section 119 in respect of a disposition in a subsequent taxation year, and the taxpayer files with the Minister a prescribed form amending the return on or before the filing-due date of the taxpayer for the taxation year that includes the day on which this version of this subsection is enacted, the Minister shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

**33. (1) Paragraphs 157(1.4)(a) and (b) of the Act are replaced by the following:**

(a) if the corporation is not associated with another corporation in the particular taxation year, the amount that is the corporation's taxable capital employed in Canada (for the purpose of this subsection, within the meaning assigned by section 181.2 or 181.3, as the case may be) for the particular taxation year; or

(b) if the corporation is associated with another corporation in the particular taxation year, the amount that is the total of all amounts each of which is the taxable capital employed in Canada of the corporation for the particular taxation year or the taxable capital employed in Canada of a corporation with which it is associated in the particular taxation year for a taxation year of that other corporation that ends in the particular taxation year.

**(2) Subsection (1) applies to taxation years that begin after 2007.**

**34. (1) The portion of subsection 185.1(2) of the French version of the Act before paragraph (a) is replaced by the following:**

(2) Dans le cas où une société serait tenue, en l'absence du présent paragraphe, de payer l'impôt prévu au paragraphe (1) relativement à une désignation excessive de dividende déterminé, non visée à l'alinéa (1)b), qu'elle effectue au titre d'un dividende déterminé (appelé « dividende initial » au présent paragraphe et au paragraphe (3)) qu'elle a versé à un moment donné, les règles ci-après s'appliquent si elle en fait le choix selon les modalités réglementaires au plus tard le quatre-vingt-dixième jour suivant la date de mise à la poste de l'avis de cotisation concernant cet impôt qui serait payable par ailleurs en vertu du paragraphe (1) :

**(2) Subsection (1) applies to the 2006 and subsequent taxation years.**

**35. (1) The definition "reserve" in subsection 204.8(1) of the Act is replaced by the following:**

"reserve" means

(a) property described in any of paragraphs (a), (b), (c), (f) and (g) of the definition "qualified investment" in section 204; and

(b) deposits with a credit union that is a "member institution" in relation to a deposit insurance corporation (within the meaning assigned by definition in subsection 137.1(5));

**(2) Subsection 204.8(1) of the Act is amended by adding the following in alphabetical order:**

Choix de traiter une désignation excessive de dividende déterminé comme un dividende ordinaire

"reserve"  
« réserve »

“terminating corporation”  
« société sortante »

“terminating corporation” in respect of a particular corporation means a predecessor corporation in circumstances where

(a) subsection 204.85(3) applies to a merger of the particular corporation and the predecessor corporation,

(b) Class A shares of the particular corporation have been issued to the predecessor corporation in exchange for property of the predecessor corporation, and

(c) within a reasonable period of time after the exchange, Class A shareholders of the predecessor corporation receive all of the Class A shares of the particular corporation issued to the predecessor corporation in the course of a wind-up of the predecessor corporation;

**(3) Subsection (1) applies to taxation years that end after 2006.**

**(4) Subsection (2) applies after 2004.**

**36. (1) The portion of clause 204.81(1)(c)(ii)(A) of the Act before subclause (I) is replaced by the following:**

(A) Class A shares that are issuable only to individuals (other than trusts), terminating corporations in respect of the corporation and trusts governed by registered retirement savings plans or by TFSAs and that entitle their holders

**(2) Subsection (1) applies after 2004.**

**37. (1) The portion of subsection 204.94(2) of the Act before the formula is replaced by the following:**

Charging provision

(2) Every person (other than a public primary caregiver that is exempt from tax under Part I) shall pay a tax under this Part for each taxation year equal to the amount determined by the formula

**(2) Subsection (1) applies to the 2007 and subsequent taxation years.**

**38. (1) Subsection 211.7(1) of the Act is amended by adding the following in alphabetical order:**

“qualifying exchange”  
« échange admissible »

“qualifying exchange” means an exchange by a taxpayer of an approved share, that is part of a series of Class A shares of the capital stock of a corporation, for another approved share, that is part of another series of Class A shares of the capital stock of the corporation, where

(a) the only consideration received by the taxpayer on the exchange is the other share; and

(b) the rights in respect of the series are identical except for the portion of the reserve (within the meaning assigned by definition in subsection 204.8(1)) of the corporation that is attributable to each series.

**(2) Section 211.7 of the Act is amended by adding the following after subsection (2):**

Exchangeable  
shares

(3) For the purposes of this Part and Part X.3, where an approved share of the capital stock of a corporation (referred to in this subsection as the “new share”) has been issued in exchange for another approved share (referred to in this subsection as the “original share”) in a qualifying exchange, the new share is deemed not to have been issued on the exchange, but to have been issued at the time the corporation issued the original share.

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

**39. (1) The portion of subsection 211.8(1) of the Act before paragraph (a) is replaced by the following:**

Disposition of  
approved share

**211.8** (1) Where an approved share of the capital stock of a registered labour-sponsored venture capital corporation or a revoked corporation is, before the first discontinuation of its venture capital business, redeemed, acquired or cancelled by the corporation less than eight years after the day on which the share was issued (other than in circumstances described in subclause 204.81(1)(c)(v)(A)(I) or (III) or clause 204.81(1)(c)(v)(B) or (D) or where the share is a Class A share of the capital stock of the corporation that is exchanged for another Class A share of the capital stock of the corporation as part of a qualifying exchange) or any other share that was issued by any other labour-sponsored venture capital corporation is disposed of, the person who was the shareholder immediately before the redemption, acquisition, cancellation or disposition shall pay a tax under this Part equal to the lesser of

**(2) Subsection (1) applies in respect of shares redeemed, acquired or cancelled after 2003.**

#### INCOME TAX REGULATIONS

**40. (1) Section 6802 of the *Income Tax Regulations* is amended by deleting “or” at the end of paragraph (f), by adding “or” at the end of paragraph (g), and by adding the following after paragraph (g):**

(h) a trust established to hold shares of Air Canada, pursuant to the June 2009 memorandum of understanding between Air Canada and certain trade unions who represent employees of Air Canada, where :

(i) the shares are held by the trust for the benefit of the trade unions; and

(ii) each of the trade unions may direct the trustee to contribute, from time to time, amounts received or receivable by the trust in respect of the shares, whether as dividends, proceeds of disposition or otherwise, to one or more registered pension plans under which Air Canada is a participating employer.

**(2) Subsection (1) applies after 2008.**

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

**8201.** For the purposes of subsection 16.1(1), the definition “outstanding debts to specified non-residents” in subsection 18(5), the definitions “excluded income” and “excluded revenue” in subsection 95(2.5), subsection 112(2), the definition “qualified Canadian transit organization” in subsection 118.02(1), subsections 125.4(1) and 125.5(1), the definition

“taxable supplier” in subsection 127(9), subparagraph 128.1(4)(b)(ii), paragraphs 181.3(5)(a) and 190.14(2)(b), the definition “Canadian banking business” in subsection 248(1) and paragraph 260(5)(a) of the Act, a “permanent establishment” of a person or partnership (either of whom 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) applies to the 2009 and subsequent taxation years.**

**42. (1) The definition “predecessor employer” in subsection 8500(1) of the Regulations is replaced by the following:**

“predecessor employer” means, in relation to a particular employer, an employer (in this definition referred to as the “vendor”) who has sold, assigned or otherwise disposed of all or part of the vendor’s business or undertaking or all or part of the assets of the vendor’s business or undertaking to the particular employer or to another employer who, at any time after the sale, assignment or other disposition, becomes a predecessor employer in relation to the particular employer, where all or a significant number of employees of the vendor have, in conjunction with the sale, assignment or disposition, become employees of the employer acquiring the business, undertaking or assets; (“*employeur remplacé*”)

**(2) Section 8500 of the Regulations is amended by adding the following after subsection (1.1):**

(1.2) The definition “predecessor employer” in subsection (1) applies for the purpose of subsection 147.2(8) of the Act.

**(3) Section 8500 of the Regulations is amended by adding the following after subsection (8):**

(9) For the purposes of paragraph 147.3(6)(b) of the Act and subparagraphs 8502(d)(iv) and 8503(2)(h)(iii), where an amount is transferred in accordance with subsection 147.3(3) of the Act to a defined benefit provision (referred to in this subsection as the “current provision”) of a registered pension plan from a defined benefit provision (referred to in this subsection as the “former provision”) of another registered pension plan on behalf of all or a significant number of members whose benefits under the former provision are replaced by benefits under the current provision, each current service contribution made at a particular time under the former provision by a member whose benefits are so replaced is deemed to be a current service contribution made at that particular time under the current provision by the member.

**(4) Subsection (1) applies after Announcement Date, except that it does not apply to benefits provided on or before Announcement Date.**

**(5) Subsection (2) applies to contributions made after 1990.**

**(6) Subsection (3) applies after 1999.**

**43. (1) Paragraph 8502(b) of the Regulations is amended by deleting “or” after subparagraph (iv), by adding “or” at the end of subparagraph (v) and by adding the following at the end of subparagraph (v):**

(v.1) is paid by the trustees of the trust described in paragraph 6802(h), where the amount would have been an eligible contribution if the amount had been paid in respect of a defined benefit provision of the plan by an employer with respect to the employer’s employees or former employees,

**(2) Subsection (1) applies after 2008.**

**44. (1) Section 8504 of the Regulations is amended by adding successively, after subsection (2),**

**(a) the following heading:**

*Predecessor employer*

**, and**

**(b) the following subsection:**

(2.1) For the purposes of subsection (2), if the pensionable service of the member under the provision includes a period throughout which the member was employed by a predecessor employer to an employer who participates in the plan, the predecessor employer is deemed to have participated under the provision for the benefit of the member.

**(2) Subsection (1) applies after 1990.**