

## **EXPLANATORY NOTES – LABOUR-SPONSORED VENTURE CAPITAL CORPORATIONS**

### **Clause 1**

#### **Transitional rules**

ITA

204.81(8.3)

Subsection 204.81(8.3) of the *Income Tax Act* (the Act) provides rules for provincially registered labour-sponsored venture capital corporations (LSVCCs) that are also federally registered LSVCCs to, under certain conditions, revoke their federal registration without penalty, where a province has decided to discontinue its venture capital tax credit program.

Subsection 204.81(8.3) provides that if a provincially registered LSVCC informs the Minister of National Revenue of its intention to revoke its registration and meets all the requirements under the particular province's wind up rules, the following rules apply:

- Paragraph (a) provides that the corporation may not issue shares that are eligible for tax credits on or after the day that it notifies the Minister that it intends to revoke its registration.
- Paragraph (b) provides that the penalty under section 204.841, which applies to a corporation when it discontinues its venture capital business and approximates the penalty applicable for early redemption for shareholders under subsection 211.8(1), will not apply following the day the corporation provides notice to the Minister.
- Paragraph (c) provides that the investment pacing rules in section 204.82, and the penalties applicable for failing to meet these pacing rules, will not apply to the corporation for taxation years that begin after it has provided its notice.
- Paragraph (d) provides that, generally, the corporation will be denied the ability to obtain a refund of amounts that they may have paid pursuant to the investment pacing rules after it has provided notice.

Subsection 204.81(8.4) provides that the relieving rules available to an LSVCC under subsection 204.81(8.3) are only available if the LSVCC meets further conditions.

The first condition is that, of the corporation's outstanding shares issued over the last eight years that were eligible for the labour-sponsored venture capital tax credit, less than 20% were issued in the last two years. The second condition is that the LSVCC revoke its registration within three years of providing notice of its intention to revoke its registration.

Subsection 204.81(8.3) is amended to extend its application to any federally registered LSVCC where the conditions set out in subsection 204.81(8.4) are met.

These amendments come into force on Announcement Date.

## Clause 2

### Amalgamations and mergers

ITA

204.85(3)

Subsection 204.85(3) of the Act applies, for the purposes of section 127.4 and Parts X.3 and XII.5 of the Act, where there is an amalgamation or merger of corporations at least one of which is a federally-registered labour-sponsored venture capital corporation (LSVCC) or a revoked corporation.

Under paragraph 204.85(3)(d), the Minister of National Revenue is deemed to have registered the new corporation for the purposes of Part X.3 unless:

- the new corporation is not governed by the *Canada Business Corporations Act*;
- one or more of the predecessor corporations was a federally registered LSVCC, the venture capital business of which was discontinued before the merger or amalgamation;
- one or more of the predecessor corporations was, immediately before the amalgamation or a merger, a revoked corporation;
- immediately after the amalgamation or merger, the articles of the new corporation do not comply with paragraph 204.81(1)(c); or
- shares other than Class A shares of the capital stock of the new corporation were issued to any shareholder of the new corporation in satisfaction of any share (other than a share to which clause 204.81(1)(c)(ii)(B) or (C) applied) of a predecessor corporation.

Where paragraph 204.85(3)(d) does not apply, the new corporation

- is deemed by paragraph 204.85(3)(e) to be a revoked corporation, and
- is considered to have discontinued its venture capital business immediately before the time it amalgamated or merged, pursuant to paragraph 204.8(2)(c). As a result, the tax in section 204.841 of the Act would apply to the predecessor corporations.

Consequential on the introduction of transitional rules to allow any federally registered LSVCC to revoke its registration without penalty, paragraph 204.85(3)(d) is amended to introduce a new condition in order for a new corporation to be deemed under paragraph 204.85(3)(d) to have been registered.

New subparagraph 204.85(3)(d)(vi) provides that paragraph 204.85(3)(d) does not deem a new corporation to have been registered for the purposes of Part X.3 if, immediately before the amalgamation or merger, one or more of the predecessor corporations is a corporation that has given notification under subsection 204.81(8.3) and one or more of the predecessor corporations is a registered LSVCC that has not given notification under that subsection.

Therefore, if a corporation that has given notification under subsection 204.81(8.3) that it intends to revoke its registration amalgamates or merges with a registered LSVCC that has not provided such notification under subsection 204.81(8.3), both corporations will be considered to have discontinued their venture capital business immediately before the time the corporations

amalgamate or merge. In such a case, any predecessor corporation that is a registered LSVCC that has not given notification under subsection 204.81(8.3) will be subject to the tax in section 204.841.

This amendment comes into force on Announcement Date.

### **Clause 3**

#### **Provincial wind-up rules for LSVCCs – Ontario**

ITR  
6708

Section 6708 of the *Income Tax Regulations* sets out provincial wind-up rules that are prescribed for the purposes of paragraph 204.8(2)(b) and subsection 204.81(8.3) of the Act. Section 6708 is amended to remove the reference to subsection 204.81(8.3), consequential on the extension of the transitional rules for labour-sponsored venture capital corporations (LSVCCs) in subsection 204.81(8.3) to any federally registered LSVCC. For further information, see the commentary on subsection 204.81(8.3).

This amendment comes into force on Announcement Date.