

CHAPTER I.0.1 PERSONAL TAX CREDITS

Basic personal tax credit.

752.0.0.1. Subject to section 752.0.0.3, an individual may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying the percentage specified in section 750.1 for the year by \$14,890.

History: 2005, c. 1, s. 150; 2005, c. 38, s. 135; 2009, c. 5, s. 261; 2017, c. 29, s. 122.

Corresponding Federal Provision: 118(1)(c).

752.0.0.2. (*Repealed*).

History: 2005, c. 1, s. 150; 2005, c. 38, s. 136; 2009, c. 5, s. 262.

Adjustment of amount.

752.0.0.3. If an individual is resident in Québec on the last day of a taxation year and is the beneficiary of a covered benefit attributable to that year, the amount in dollars referred to in section 752.0.0.1 that would otherwise be taken into account in computing the amount deductible by the individual for the year under section 752.0.0.1, with reference to section 750.2, is to be reduced by the aggregate of all amounts each of which is an amount determined for the year under any of sections 752.0.0.4 to 752.0.0.6.

Covered benefit.

In the first paragraph and sections 752.0.0.4 to 752.0.0.6, "covered benefit" attributable to a taxation year means an amount that is an income replacement indemnity, or a compensation for the loss of financial support, determined in that year under a public compensation plan and established on the basis of net income following an accident, employment injury, bodily injury or death or in order to prevent bodily injury, other than

(a) an amount that is attributable to a period preceding the year;

(b) an amount that is the net salary or wages paid by an employer, in accordance with the Act respecting industrial accidents and occupational diseases (chapter A-3.001), for each day or part of a day when a worker must be absent from work to receive care or undergo medical examinations in connection with the worker's injury, or to take part in a personal rehabilitation program; or

(c) an amount that replaces income described in paragraph e of section 725.

Special rule.

For the purposes of the first paragraph, if an individual dies or ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is the day on which the

individual died or the last day on which the individual was resident in Canada.

Exception.

This section does not apply in respect of an individual's separate fiscal return filed under the second paragraph of section 429 or section 681 or 1003.

History: 2005, c. 38, s. 137; 2009, c. 5, s. 263; 2015, c. 21, s. 273.

Covered benefit determined by the CNESST.

752.0.0.4. If section 752.0.0.3 applies to an individual in respect of a covered benefit attributable to a taxation year and the amount of which is determined by the Commission des normes, de l'équité, de la santé et de la sécurité du travail, there shall be included in computing, for that year, the aggregate referred to in the first paragraph of section 752.0.0.3, an amount equal to the total of

(a) in respect of a covered benefit attributable to the year and paid by an employer for the first 14 full days following the beginning of the individual's disability, the lesser of

i. the total of the covered benefits attributable to the year and paid by the employer for the first 14 full days following the beginning of the individual's disability, and

ii. the amount determined by the formula

$0.90 \times A/B \times C$; and

(b) in respect of a covered benefit attributable to the year, other than the covered benefit referred to in subparagraph a, for each day of the year for which the covered benefit is determined, in this section referred to as the "particular day", the lesser of the amounts determined for the particular day by the following formulas:

i. $[(0.90 \times D/E) - (F/E)] \times (1 - G)$, and

ii. $[(0.90 \times H/E) - I] \times (1 - G)$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the amount determined under the third paragraph of section 1015.3 that is applicable for the year;

(b) B is the number of days in the year, excluding Saturdays and Sundays;

(c) C is the number of days in the year, excluding Saturdays and Sundays, between the day on which the individual's disability begins and the day on which the individual returns to work, but without exceeding 14 days;

(d) D is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit

attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan (chapter R-9), the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;

(e) E is the number of days in the year;

(f) F is the annual gross revenue from a suitable employment or employment held, for the particular day;

(g) G is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;

(h) H is the amount in dollars referred to in section 752.0.0.1 that is applicable for the year, with reference to section 750.2, to the extent that the amount is used by the Commission des normes, de l'équité, de la santé et de la sécurité du travail to establish the weighted net income for the purpose of computing, for the particular day, the covered benefit attributable to the year; and

(i) I is the lesser of

i. the amount obtained by dividing the annual gross revenue from a suitable employment or employment held, for the particular day, by the number of days in the year, and

ii. the amount obtained by dividing, by the number of days in the year, the amount in dollars referred to in section 752.0.0.1 that is applicable for the year, with reference to section 750.2, to the extent that the amount is used by the Commission des normes, de l'équité, de la santé et de la sécurité du travail to establish the weighted net income from a suitable employment or employment held, for the particular day;

(j) *(subparagraph repealed)*;

(k) *(subparagraph repealed)*.

Annual gross revenue from a suitable employment or employment held.

For the purposes of subparagraph *f* and subparagraph *i* of subparagraph *i* of the second paragraph, “annual gross revenue from a suitable employment or employment held”, for a particular day, means the annual gross revenue relating to a suitable employment or employment held that is taken into account in determining, for the particular day, the covered benefit attributable to the year, including the annual gross revenue from any benefit paid to the individual, because of a termination of employment, under an Act of Québec or of any other jurisdiction, other than the Act respecting industrial accidents and occupational diseases (chapter A-3.001), that is taken into account in determining, for the particular day, the covered benefit attributable to the

year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan, the amount that would be the annual gross revenue relating to a suitable employment or employment held that would be taken into account in determining, for the particular day, the covered benefit attributable to the year if, from the year following that for which that gross revenue was last established, it were adjusted according to the same rules as those applicable to the covered benefit.

History: 2005, c. 38, s. 137; 2009, c. 5, s. 264; 2015, c. 15, s. 237; 2017, c. 29, s. 123.

Covered benefit determined by the SAAQ.

752.0.0.5. If section 752.0.0.3 applies to an individual in respect of a covered benefit attributable to a taxation year and the amount of which is determined by the Société de l'assurance automobile du Québec, there shall be included in computing for that year the aggregate referred to in the first paragraph of section 752.0.0.3, an amount equal to the aggregate of all amounts each of which is, for each day of the year for which the covered benefit is determined, in this section referred to as the “particular day”, equal to the lesser of the amounts determined for the particular day by the following formulas:

(a) $\{[(0.90 \times A/B) - (C \times D/B)] \times (1 - E)\} - F/B$; and

(b) $\{[(0.90 \times G/B) - (C \times H)] \times (1 - E)\} - F/B$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan (chapter R-9), the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;

(b) B is the number of days in the year;

(c) C is,

i. if only part of the net income from an employment held is used to reduce, for the particular day, the covered benefit attributable to the year, the percentage attributed under the public compensation plan in respect of that net income, and

ii. in any other case, 100%;

(d) D is the annual gross revenue from a suitable employment or employment held, for the particular day;

(e) E is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;

(f) F is the amount that is payable for the year as an old age pension or as a disability benefit payable under a plan established by a jurisdiction, other than Québec, that is equivalent to the plan established under the Act respecting the Québec Pension Plan, and that is, in determining, for the particular day, the covered benefit attributable to the year, used by the Société de l'assurance automobile du Québec to reduce the amount of that covered benefit;

(g) G is the amount in dollars referred to in section 752.0.0.1 that is applicable for the year, with reference to section 750.2, to the extent that the amount is used by the Société de l'assurance automobile du Québec to establish the weighted net income for the purpose of computing, for the particular day, the covered benefit attributable to the year; and

(h) H is the lesser of

i. the amount obtained by dividing the annual gross revenue from a suitable employment or employment held, for the particular day, by the number of days in the year, and

ii. the amount obtained by dividing, by the number of days in the year, the amount in dollars referred to in section 752.0.0.1 that is applicable for the year, with reference to section 750.2, to the extent that the amount is used by the Société de l'assurance automobile du Québec to establish the weighted net income from a suitable employment or employment held, for the particular day;

(i) *(subparagraph repealed)*.

Annual gross revenue from a suitable employment or employment held.

For the purposes of subparagraph *d* and subparagraph *i* of subparagraph *h* of the second paragraph, “annual gross revenue from a suitable employment or employment held”, for a particular day, means the annual gross revenue relating to a suitable employment or employment held that is taken into account in determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan, the amount that would be the annual gross revenue relating to a suitable employment or employment held that would be taken into account in determining, for the particular day, the covered benefit attributable to the year if, from the year for which that gross revenue was last established, it were adjusted according to the same rules as those applicable to the covered benefit.

History: 2005, c. 38, s. 137; 2009, c. 5, s. 265; 2017, c. 29, s. 124.

Covered benefit determined by another entity.

752.0.0.6. If section 752.0.0.3 applies to an individual in respect of a covered benefit attributable to a taxation year and the amount of which is determined by an entity, other than the Commission des normes, de l'équité, de la santé et de la sécurité du travail and the Société de l'assurance automobile du Québec, there must be included in computing, for that year, the aggregate referred to in the first paragraph of section 752.0.0.3, an amount equal to the aggregate of all amounts each of which is, for each day of the year for which the covered benefit is determined (in this section referred to as the “particular day”), equal to the lesser of the amounts determined for the particular day by the following formulas:

(a) $\{[(A \times B/C) - (D \times E/C)] \times (1 - F)\} - G/C$; and

(b) $\{[(A \times H/C) - I] \times (1 - F)\} - G/C$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the percentage that applies to the income insured by the public compensation plan for the purpose of determining, for the particular day, the covered benefit attributable to the year;

(b) B is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with the public compensation plan, the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;

(c) C is the number of days in the year;

(d) D is,

i. if only a portion of the income, other than the recognized income on the date of the event giving rise to the covered benefit attributable to the year, is taken into consideration in determining, for the particular day, the covered benefit attributable to the year, the percentage attributed under the public compensation plan in respect of that income, and

ii. in any other case, 100%;

(e) E is the annual gross revenue from a suitable employment or employment held, for the particular day;

(f) F is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;

(g) G is the amount that is, in determining, for the particular day, the covered benefit attributable to the year, used to reduce the amount of that covered benefit;

(h) H is the amount in dollars referred to in section 752.0.0.1 that is applicable for the year, with reference to section 750.2; and

(i) I is the amount obtained by multiplying, by the percentage determined for the year under subparagraph *d*, the lesser of

i. the amount obtained by dividing the annual gross revenue from a suitable employment or employment held, for the particular day, by the number of days in the year, and

ii. the amount obtained by dividing, by the number of days in the year, the amount in dollars referred to in section 752.0.0.1 that is applicable for the year, with reference to section 750.2;

(j) *(subparagraph repealed)*.

Annual gross revenue from a suitable employment or employment held.

For the purposes of subparagraph *e* and subparagraph *i* of subparagraph *i* of the second paragraph, “annual gross revenue from a suitable employment or employment held”, for a particular day, means the annual gross revenue relating to a suitable employment or employment held, including any other amount that replaces work income, that is taken into account in determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with the public compensation plan, the amount that would be the annual gross revenue relating to a suitable employment or employment held that would be taken into account in determining, for the particular day, the covered benefit attributable to the year if, from the year for which that gross revenue was last established, it were adjusted according to the same rules as those applicable to the covered benefit.

History: 2005, c. 38, s. 137; 2009, c. 5, s. 266; 2015, c. 15, s. 237; 2017, c. 29, s. 125.

Personal tax credits.

752.0.1. An individual may deduct from the individual’s tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying the percentage specified in section 750.1 for the year by the aggregate of

(a) *(paragraph repealed)*;

(b) *(paragraph repealed)*;

(c) *(paragraph repealed)*;

(d) for each person who is under 18 years of age throughout the year and who is a child of the individual if the person is a dependant of the individual in the year and if the person is not a person in respect of whom the individual’s eligible spouse for the year, within the meaning of sections 776.41.1 to 776.41.4, deducts an amount under section 776.41.5 from the eligible spouse’s tax otherwise payable for the year under this Part, \$2,861 in respect of each completed term, without exceeding two, which began in the year and during which the person was in full-time attendance at an educational institution designated by the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level established under the Act respecting financial assistance for education expenses (chapter A-13.3), where the person was enrolled in an educational program referred to in section 752.0.2.1; and

(e) *(paragraph repealed)*;

(f) \$4,168 for each person, other than the individual’s spouse, who

i. is related to the individual by blood, marriage or adoption,

ii. during the year, is 18 years of age or over,

iii. during the year, ordinarily lives with the individual,

iv. during the year, is dependent for support on the individual, and

v. is not a person in respect of whom

(1) the individual’s eligible spouse for the year, within the meaning of sections 776.41.1 to 776.41.4, deducts an amount under section 776.41.5 from the eligible spouse’s tax otherwise payable for the year under this Part, or

(2) an individual deducts an amount under section 776.41.14 from the individual’s tax otherwise payable for the year under this Part;

(g) *(paragraph repealed)*;

(h) *(paragraph repealed)*;

(i) *(paragraph repealed)*;

(j) *(paragraph repealed)*.

History: 1989, c. 5, s. 104; 1990, c. 7, s. 60; 1991, c. 8, s. 43; 1992, c. 1, s. 55; 1993, c. 19, s. 51; 1995, c. 1, s. 71; 1997, c. 14, s. 109; 1997, c. 31, s. 77; 1997, c. 85, s. 119; 1999, c. 83, s. 85; 2001, c. 51, s. 48; 2003, c. 9, s. 66; 2004, c. 21, s. 192; 2005, c. 1, s. 151; 2005, c. 28, s. 195; 2005, c. 38, s. 138; 2009, c. 5, s. 267; 2013, c. 28, s. 139; 2017, c. 29, s. 126.

Corresponding Federal Provision: 118(1) before (a).

Special rule.

752.0.1.1. If, for the purpose of establishing the amount that an individual may deduct from the individual's tax otherwise payable for a taxation year under section 752.0.1, the individual includes, in the aggregate referred to in that section, an amount under paragraph *f* of that section in respect of a person who reaches 18 years of age in the year, the amount that would otherwise be applicable for the year under that paragraph is to be replaced by the proportion of that amount that the number of months in the year that follow the month in which that person reaches 18 years of age is of 12.

History: 2005, c. 1, s. 152; 2005, c. 38, s. 139; 2009, c. 5, s. 268.

752.0.1.2. *(Repealed).*

History: 2005, c. 1, s. 152; 2006, c. 13, s. 57; 2009, c. 5, s. 269.

Reduction of the amount referred to in section 752.0.1.

752.0.2. The amount to which an individual is entitled under section 752.0.1 in respect of one person for a taxation year must be reduced by the amount that is the person's income for the year under this Part or, if the person was not resident in Canada throughout the year, that would be the person's income for the year under this Part, computed as if the person had been resident in Québec and in Canada throughout the year or, if the person died in the year, throughout the period of the year preceding the time of death.

Rule applicable.

For the purposes of the first paragraph, the income of a person for a taxation year under this Part must be computed without reference to paragraph *g* of section 312 and Chapter VII.1 of Title VI of Book III.

History: 1989, c. 5, s. 104; 1995, c. 1, s. 72; 1997, c. 85, s. 120; 2002, c. 40, s. 67; 2003, c. 9, s. 67 [amended by 2004, c. 8, s. 220]; 2005, c. 1, s. 153; 2009, c. 5, s. 270; 2017, c. 29, s. 127.

Educational programs.

752.0.2.1. An educational program to which paragraph *d* of section 752.0.1 refers means any of the following programs that provides that each student taking the program spend not less than 9 hours per week on courses or work in the program:

(a) where the educational institution is situated in Québec, an educational program recognized by the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level established under the Act respecting financial assistance for education expenses (chapter A-13.3); and

(b) where the educational institution is situated outside Québec, an educational program at the college level or at the university level or the equivalent.

Person deemed to be pursuing studies on a full-time basis.

If the student is a person who is deemed to be pursuing studies on a full-time basis under section 752.0.2.2, the first paragraph is to be read as if "spend not less than nine hours per week on courses or work in the program" was replaced by "receive a minimum of 20 hours of instruction per month".

History: 2001, c. 51, s. 49; 2005, c. 28, s. 195; 2005, c. 38, s. 140; 2013, c. 28, s. 139.

Person deemed to be pursuing studies on a full-time basis.

752.0.2.2. For the purposes of paragraph *d* of section 752.0.1, a person is deemed to be pursuing studies on a full-time basis during a taxation year if the person has a major functional deficiency within the meaning of the Regulation respecting financial assistance for education expenses (chapter A-13.3, r. 1), and the person, for this reason, pursues studies on a part-time basis during that taxation year.

History: 2005, c. 38, s. 141.

Certificate of enrolment in a educational program.

752.0.3. A deduction may be granted under section 752.0.1, by virtue of paragraph *d* of that section, only if the enrolment at an educational institution in an educational program referred to in section 752.0.2.1 is proven by filing with the Minister a certificate in a prescribed form issued by the educational institution and containing the prescribed information.

History: 1989, c. 5, s. 104; 1994, c. 22, s. 350; 1997, c. 85, s. 121; 2001, c. 51, s. 50.

752.0.4. *(Repealed).*

History: 1989, c. 5, s. 104; 2003, c. 9, s. 68; 2005, c. 1, s. 154; 2009, c. 5, s. 271.

752.0.5. *(Repealed).*

History: 1989, c. 5, s. 104; 2005, c. 1, s. 155.

752.0.5.1. *(Repealed).*

History: 1999, c. 83, s. 86; 2005, c. 1, s. 155.

752.0.5.2. *(Repealed).*

History: 2003, c. 9, s. 69; 2005, c. 1, s. 156; 2009, c. 5, s. 272.

752.0.6. *(Repealed).*

History: 1989, c. 5, s. 104; 1994, c. 22, s. 256; 1998, c. 16, s. 185; 2003, c. 9, s. 70.

Maximum amount.

752.0.7. Where, for a taxation year, more than one individual is entitled to deduct an amount under sections 752.0.1 to 752.0.3 in respect of the same dependant, the following rules apply:

(a) the amount that an individual could deduct, but for this section, for the year under sections 752.0.1 to 752.0.3 in respect of that person shall be reduced to the proportion of that amount determined, in respect of the individual, by all the individuals who would so be entitled to a deduction for the year under those sections in respect of that person;

(b) the aggregate of the proportions determined for the purposes of paragraph *a* by all the individuals, in respect of that person, shall in no case exceed 1 for the year; and

(c) where the aggregate of the proportions determined for the purposes of paragraph *a* exceeds 1 for the year, the Minister may fix the amount deductible by each individual for the year under those sections in respect of that person.

History: 1989, c. 5, s. 104; 2003, c. 9, s. 71; 2005, c. 1, s. 157; 2009, c. 5, s. 273.

CHAPTER I.0.2**TAX CREDIT FOR PERSONS LIVING ALONE, WITH RESPECT TO AGE AND FOR RETIREMENT INCOME****Definitions:**

752.0.7.1. In this chapter,

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“family income”.

“family income” of an individual for a taxation year means the amount by which the aggregate of the income of the individual for the year and the income, for the year, of the individual’s eligible spouse for the year exceeds \$33,755.

History: 1997, c. 85, s. 123; 2003, c. 9, s. 72; 2005, c. 1, s. 158; 2009, c. 5, s. 274; 2015, c. 36, s. 41; 2017, c. 29, s. 128.

752.0.7.2. *(Repealed).*

History: 1997, c. 85, s. 123; 2003, c. 9, s. 73.

Individual not resident in Canada throughout the year.

752.0.7.3. For the purposes of the definition of “family income” in section 752.0.7.1, where an individual was not resident in Canada throughout a taxation year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, where the

individual died in the year, throughout the period of the year preceding the time of death.

History: 1997, c. 85, s. 123; 2001, c. 53, s. 112; 2003, c. 9, s. 74.

Tax credit amount.

752.0.7.4. An individual may deduct from the individual’s tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying the percentage specified in section 750.1 for the year by the amount by which the aggregate of the following amounts exceeds 18.75% of the individual’s family income for the year:

(a) in respect of the individual,

i. \$1,707, if the following conditions are met:

(1) *(subparagraph repealed),*

(2) the individual ordinarily lives, throughout the year or, if the individual dies in the year, throughout the period of the year before the time of death, in a self-contained domestic establishment maintained by the individual and in which no person, other than the individual, a person under 18 years of age or a person of whom the individual is the father, mother, grandfather, grandmother, great-grandfather or great-grandmother and who is an eligible student for the year, within the meaning of section 776.41.12, lives during the year or, if the individual dies in the year, during the period of the year before the time of death, and

(3) the individual files with the Minister, for the year, in relation to the self-contained domestic establishment, a copy of the individual’s account of property taxes for the year, or, if the individual is unable to file a copy of that account or if the individual does not own the self-contained domestic establishment, the prescribed form, on or before the individual’s filing-due date for the year;

i.1. \$2,107, if the individual meets the conditions set out in subparagraphs 2 and 3 of subparagraph i and

(1) the individual lives in the year with a person of whom the individual is the father or mother and who is an eligible student referred to in subparagraph 2 of subparagraph i, and

(2) at the end of the year or on the date of the individual’s death, the individual has no child in respect of whom the individual is entitled to an amount deemed under section 1029.8.61.18, for the last month of the year, to be an overpayment of the individual’s tax payable;

ii. the lesser of \$2,782 and the amount obtained by multiplying the amount described in the second paragraph in respect of the individual for the year by 125%; and

iii. where the individual has reached 65 years of age before the end of the year, \$3,132; and

(b) in respect of the individual's eligible spouse for the year,

i. \$1,707, if the following conditions are met:

(1) *(subparagraph repealed)*,

(2) the eligible spouse ordinarily lives, throughout the year, in a self-contained domestic establishment maintained by the eligible spouse and in which no person, other than the eligible spouse, a person under 18 years of age or a person of whom the eligible spouse is the father, mother, grandfather, grandmother, great-grandfather or great-grandmother and who is an eligible student for the year, within the meaning of section 776.41.12, lives during the year, and

(3) the individual files with the Minister, for the year, in relation to the self-contained domestic establishment, a copy of the account of property taxes, for the year, of the individual's eligible spouse, or, if the individual is unable to file a copy of that account or if the spouse does not own the self-contained domestic establishment, the prescribed form, on or before the individual's filing-due date for the year, unless that copy or the form is otherwise filed with the Minister for the year by the spouse;

i.1. \$2,107, if the eligible spouse meets the conditions set out in subparagraphs 2 and 3 of subparagraph i and

(1) the eligible spouse lives in the year with a person of whom the eligible spouse is the father or mother and who is an eligible student referred to in subparagraph 2 of subparagraph i, and

(2) at the end of the year or on the date of the eligible spouse's death, the eligible spouse has no child in respect of whom the eligible spouse is entitled to an amount deemed under section 1029.8.61.18, for the last month of the year, to be an overpayment of the eligible spouse's tax payable;

ii. the lesser of \$2,782 and the amount obtained by multiplying the amount described in the second paragraph in respect of the eligible spouse for the year by 125%; and

iii. where the eligible spouse has reached 65 years of age before the end of the year, \$3,132.

Amount.

The amount to which subparagraph ii of subparagraph *a* of the first paragraph refers for a taxation year in respect of an individual or, as the case may be, the amount to which subparagraph ii of subparagraph *b* of that paragraph refers for a taxation year in respect of the eligible spouse of an individual for the year is equal to the aggregate of

(a) the amount described in section 752.0.8 for the year in respect of the individual or, as the case may be, the amount described in section 752.0.8 for the year in respect of that eligible spouse;

(b) the aggregate of all amounts received in the year by the individual on account of a retirement income security benefit payable under Part 2 of the Veterans Well-being Act (Statutes of Canada, 2005, chapter 21) or, as the case may be, the aggregate of all amounts received as such in the year by that eligible spouse; and

(c) the aggregate of all amounts received in the year by the individual on account of an income replacement benefit payable under Part 2 of the Veterans Well-being Act, if the amount is determined under subsection 1 of section 19.1, paragraph *b* of subsection 1 of section 23 or subsection 1 of section 26.1 of that Act (as modified, where applicable, under Part 5 of that Act) or, as the case may be, the aggregate of all amounts received as such in the year by that eligible spouse.

History: 1997, c. 85, s. 123; 1999, c. 83, s. 87; 2001, c. 51, s. 51; 2002, c. 40, s. 68; 2003, c. 9, s. 75; 2005, c. 1, s. 159; 2009, c. 5, s. 275; 2009, c. 15, s. 135; 2011, c. 1, s. 38; 2015, c. 36, s. 42; 2017, c. 29, s. 129; 2019, c. 14, s. 215; 2020, c. 16, s. 102.

Corresponding Federal Provision: 118(3) element B of the formula.

Special rule.

752.0.7.4.1. If, for the purpose of establishing the amount that an individual may deduct from the individual's tax otherwise payable for a taxation year under section 752.0.7.4, the individual includes, in the aggregate referred to in the first paragraph of that section, a particular amount under subparagraph *i.1* of subparagraph *a* or *b* of the first paragraph of section 752.0.7.4 and the individual or the individual's eligible spouse for the year, as the case may be, was entitled to receive, for a month of the year, an amount deemed under section 1029.8.61.18 to be an overpayment of their tax payable for the year, the particular amount that would otherwise be applicable for the year under that subparagraph is to be reduced by the proportion of that particular amount that the number of months in the year in respect of which the individual or the individual's eligible spouse was entitled to such a deemed amount is of 12.

History: 2009, c. 5, s. 276; 2019, c. 14, s. 216.

Credit claimed by both spouses.

752.0.7.5. Where, for a taxation year, a particular individual to whom section 752.0.7.4 applies has an eligible spouse for the year who is also an individual to whom that section applies,

(a) the amount deductible by the particular individual for the year under section 752.0.7.4, determined without reference to this section, shall be reduced by such portion of the amount as the particular individual and the eligible spouse agree to attribute to the eligible spouse for the year in the prescribed form filed with the Minister by the particular individual with the particular individual's fiscal return under this Part for the year;

(b) the amount deductible by the eligible spouse for the year under section 752.0.7.4, determined without reference to this section, shall be reduced by the amount determined for the year under paragraph *a* in respect of the particular individual;

(c) where the particular individual and the eligible spouse cannot agree on the portion of the amount that may be designated for the year in accordance with paragraph *a* in respect of the particular individual, the Minister may designate such portion and, for the purposes of paragraph *a*, the designation is deemed to have been made in prescribed form by the particular individual and the eligible spouse; and

(d) the amount determined for the year under paragraph *a* in respect of the particular individual and the amount determined for the year under paragraph *b* in respect of the eligible spouse are deemed to be the amount deductible by the particular individual for the year under that section 752.0.7.4 and the amount so deductible by the eligible spouse for the year, respectively.

History: 1997, c. 85, s. 123; 2020, c. 16, s. 103.

Certificate from eligible spouse.

752.0.7.6. An individual who has an eligible spouse for a taxation year is entitled to the deduction under section 752.0.7.4 for the taxation year only if the individual files with the Minister, together with the individual's fiscal return under this Part for the year, a certificate from the spouse in prescribed form.

History: 1997, c. 85, s. 123.

Amount.

752.0.8. The amount to which subparagraph *a* of the second paragraph of section 752.0.7.4 refers for a taxation year in respect of an individual or, as the case may be, of an individual's eligible spouse for the year is equal to the aggregate of

(a) the aggregate of all amounts each of which is an amount included in computing the individual's or, as the case may be, the eligible spouse's income for the year that is

i. a payment in respect of a life annuity out of or under a pension plan (other than a pooled registered pension plan) or a specified pension plan,

ii. an annuity payment under a registered retirement savings plan or under a new plan as referred to in section 914 or under an annuity in respect of which an amount is included in computing the individual's or, as the case may be, the eligible spouse's income by reason of paragraph *c.2* of section 312,

iii. a payment out of or under a registered retirement income fund or under an amended fund as referred to in section 961.9,

iii.1. a payment, other than a payment described in subparagraph i, payable on a periodic basis under a money purchase provision, within the meaning assigned by section 965.0.1, of a registered pension plan,

iii.2. an amount included under Title VI.0.2 of Book VII,

iv. an annuity payment under a deferred profit sharing plan or under a plan the registration of which is revoked by virtue of subsection 14 or 14.1 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement),

v. a payment described in subparagraph v of paragraph *k* of subsection 2 of section 147 in the English text of the Income Tax Act, or

vi. the amount by which an annuity payment included in computing the individual's or, as the case may be, the eligible spouse's income for the year under paragraph *c* of section 312, other than an income-averaging annuity payment respecting income from artistic activities, exceeds the capital element of that payment as determined under paragraph *f* of section 336; and

(b) the aggregate of all amounts each of which is an amount included in computing the individual's or, as the case may be, the eligible spouse's income for the year by reason of sections 92.11 to 92.19.

History: 1989, c. 5, s. 104; 1991, c. 25, s. 90; 1993, c. 16, s. 280; 1997, c. 14, s. 110; 1997, c. 85, s. 124; 1998, c. 16, s. 251; 2005, c. 23, s. 93; 2007, c. 12, s. 85; 2009, c. 15, s. 136; 2013, c. 10, s. 50; 2015, c. 21, s. 274; 2019, c. 14, s. 217.

Corresponding Federal Provision: 118(3)(a) of the description of B and 118(7) "pension income".

752.0.9. (*Repealed*).

History: 1989, c. 5, s. 104; 1991, c. 25, s. 91; 1994, c. 22, s. 257; 1997, c. 14, s. 111; 1997, c. 85, s. 125; 1999, c. 83, s. 88.

Interpretation.

752.0.10. The amounts described in section 752.0.8 do not include any amount that is

(a) the amount of any pension, supplement or allowance received under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or a similar payment made under a provincial law;

(b) the amount of any benefit paid under the Act respecting the Québec Pension Plan (chapter R-9) or under a similar plan within the meaning of the said Act;

(c) a death benefit;

(d) the amount by which a particular amount required to be included in computing the individual's income for the year exceeds the amount by which the particular amount exceeds

the aggregate of all amounts each of which is deducted otherwise than under the first paragraph of section 336.11 by the individual for the year in respect of that particular amount;

(e) an amount received out of or under a retirement compensation arrangement, a salary deferral arrangement, an employee trust or an employee benefit plan;

(e.1) a payment, other than a payment under the Judges Act (Revised Statutes of Canada, 1985, chapter J-1) or the Lieutenant Governors Superannuation Act (Revised Statutes of Canada, 1985, chapter L-8), received out of or under an unfunded supplemental plan or arrangement, being a plan or arrangement where

i. the payment was in respect of services rendered to an employer by the individual or the individual's spouse or former spouse as an employee, and

ii. the plan or arrangement would have been a retirement compensation arrangement or an employee benefit plan had the employer made a contribution in respect of the payment to a trust governed by the plan or arrangement; or

(f) an amount that is

i. an amount included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period, within the meaning of section 737.18.6, in relation to an employment that is included in the year,

ii. the part of an amount, included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, within the meaning of section 737.18.29, in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period, or

iii. the part of an amount, included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, established under the fourth paragraph of section 65 of the Act respecting international financial centres (chapter C-8.3), in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period.

History: 1989, c. 5, s. 104; 1997, c. 31, s. 78; 1999, c. 83, s. 89; 1999, c. 86, s. 99; 2000, c. 39, s. 59; 2001, c. 53, s. 113; 2003, c. 9, s. 76; 2004, c. 21, s. 193; 2005, c. 38, s. 142; 2009, c. 5, s. 277; 2013, c. 10, s. 51.

Corresponding Federal Provision: 118(8).

Bridging benefits.

752.010.0.1. For the purposes of section 752.0.8, a payment in respect of a life annuity under a pension plan is deemed to include a payment in respect of bridging benefits, being benefits payable under a registered pension plan on a periodic basis and not less frequently than annually to an individual if

(a) the individual or the individual's spouse or former spouse was a member, within the meaning of section 965.0.1, of the registered pension plan;

(b) the benefits are payable for a period that ends no later than the end of the month following the month in which the member reaches 65 years of age or would have reached that age but for the member's death; and

(c) the amount, expressed on an annual basis, of the benefits payable to the individual for a calendar year does not exceed the total of the maximum amount of benefits payable for that year under Part I of the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) and the maximum amount of benefits, other than disability, death or survivor benefits, payable for that year under either the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of paragraph *u* of section 1 of that Act.

History: 2009, c. 5, s. 278.

Corresponding Federal Provision: 118(8.1).

CHAPTER I.0.2.0.1 TAX CREDIT FOR CAREER EXTENSION

Definitions:

752.010.0.2. In this chapter,

“eligible work income”;

“eligible work income” of an individual for a taxation year means the aggregate of all amounts, other than excluded work income, each of which is

(a) an amount included under any of sections 32 to 58.3 in computing the individual's income for the year from an office or employment;

(b) the amount by which the individual's income for the year from any business the individual carries on either alone or as a partner actively engaged in the business exceeds the aggregate of the individual's losses for the year from such businesses;

(c) an amount included in computing the individual's income for the year under paragraph *e.2* or *e.6* of section 311; or

(d) an amount included in computing the individual's income for the year under paragraph *h* of section 312;

“excluded work income”;

“excluded work income” of an individual for a taxation year means

(a) an amount included in computing the individual's income for the year from a previous office or employment, if each of the amounts that make up the income is the value of a benefit received or enjoyed by the individual in the year because of that office or employment;

(b) an amount deducted in computing the individual's taxable income for the year; or

(c) (paragraph repealed);

(d) an amount included in computing the individual's income for the year from an office or employment with an employer, where the individual does not deal at arm's length with the employer or, if the latter is a partnership, with any of its members;

“reduction threshold”.

“reduction threshold” applicable for a taxation year means the amount referred to in subparagraph *d* of the fourth paragraph of section 750.2 that, taking into account the application of that section, is to be used for the year.

History: 2011, c. 34, s. 36; 2015, c. 21, s. 275; 2015, c. 36, s. 43; 2017, c. 29, s. 130; 2019, c. 14, s. 219.

Tax credit for career extension.

752.0.10.0.3. An individual who on the last day of a taxation year or, if the individual dies in the year, on the date of the individual's death is resident in Québec and is 60 years of age or over may, subject to the fourth paragraph, deduct from the individual's tax otherwise payable for the year under this Part an amount determined by the formula

$$(A \times B) - (0.05 \times C).$$

Interpretation.

In the formula in the first paragraph,

(a) *A* is the percentage specified in paragraph *a* of section 750 that is applicable for the year;

(b) *B* is the amount determined under the third paragraph; and

(c) *C* is the amount by which the individual's eligible work income for the year exceeds the reduction threshold applicable for the year.

Amount determined.

The amount to which subparagraph *b* of the second paragraph refers is

(a) where the individual is 66 years of age or over at the end of the year or, if the individual dies in the year, on the date of the individual's death, the lesser of \$11,000 and the amount by which the individual's eligible work income for the year that is attributable to the year exceeds \$5,000;

(b) where the individual is 65 years of age at the end of the year or, if the individual dies in the year, on the date of the individual's death, the lesser of \$11,000 and the aggregate of

i. the lesser of \$10,000 and the amount by which the individual's eligible work income for the year that is attributable to the period in the year throughout which the individual is 64 years of age exceeds \$5,000, and

ii. the amount by which the individual's eligible work income for the year that is attributable to the period in the year throughout which the individual is 65 years of age exceeds the amount by which \$5,000 exceeds the individual's eligible work income for the year that is attributable to the period in the year throughout which the individual is 64 years of age;

(c) where the individual is 61 to 64 years of age at the end of the year or, if the individual dies in the year, on the date of the individual's death, the lesser of \$10,000 and the amount by which the individual's eligible work income for the year that is attributable to the year exceeds \$5,000; or

(d) where the individual is 60 years of age at the end of the year or, if the individual dies in the year, on the date of the individual's death, the lesser of \$10,000 and the amount by which the individual's eligible work income for the year that is attributable to the period in the year throughout which the individual is 60 years of age exceeds \$5,000.

Individual born before 1 January 1951.

The amount that an individual born before 1 January 1951 may deduct under this section from the individual's tax otherwise payable under this Part for a particular taxation year cannot be less than the amount the individual could so deduct for the particular year if subparagraphs *b* and *c* of the second paragraph were read as follows:

“(b) *B* is the lesser of \$4,000 and the amount by which the individual's eligible work income for the particular year that is attributable to the year exceeds \$5,000; and

“(c) *C* is an amount equal to zero.”.

History: 2011, c. 34, s. 36; 2015, c. 36, s. 44; 2017, c. 29, s. 131; 2019, c. 14, s. 220.

CHAPTER I.0.2.0.2

TAX CREDIT FOR VOLUNTEER FIREFIGHTERS

Definitions.

752.0.10.0.4. In this chapter,

“*eligible volunteer firefighting services*”;

“eligible volunteer firefighting services” means services (other than excluded services) provided by an individual in the individual's capacity as a volunteer firefighter to a fire safety service and that consist primarily of being on call for and responding to firefighting and related emergency calls,

attending meetings held by the fire safety service and participating in required training related to the prevention or suppression of fires;

“excluded services”;

“excluded services” means services provided by an individual in the individual’s capacity as a volunteer firefighter to a fire safety service to which the individual also provides firefighting services otherwise than as a volunteer;

“volunteer firefighter”.

“volunteer firefighter” has the meaning assigned by the third paragraph of section 39.6.

History: 2012, c. 8, s. 113; 2017, c. 1, s. 188.

Corresponding Federal Provision: 118.06(1).

Volunteer firefighter tax credit.

752.0.10.0.5. An individual who provides eligible volunteer firefighting services in a taxation year may deduct, from the individual’s tax otherwise payable for the year under this Part, an amount equal to the product obtained by multiplying \$3,000 by the percentage specified in paragraph *a* of section 750 that is applicable for the year if

(a) the individual performs in the year not less than 200 hours of service each of which is an hour of

i. eligible volunteer firefighting service for a fire safety service, or

ii. eligible search and rescue volunteer service for an eligible search and rescue organization, within the meaning assigned to those expressions by section 752.0.10.0.6; and

(b) the individual files with the Minister, at the request of and in the manner determined by the Minister, a written certificate from the fire chief or an authorized representative of each fire safety service to which the individual provided eligible volunteer firefighting services in the year, attesting to the number of hours of such services performed in the year by the individual for that fire safety service and, if applicable, the certificate referred to in paragraph *b* of section 752.0.10.0.7 in respect of the eligible search and rescue volunteer services performed by the individual in the year.

History: 2012, c. 8, s. 113; 2015, c. 24, s. 99.

Corresponding Federal Provision: 118.06(2) and (3).

CHAPTER I.0.2.0.3

TAX CREDIT FOR SEARCH AND RESCUE VOLUNTEERS

Definitions:

752.0.10.0.6. In this chapter,

“eligible search and rescue organization”;

“eligible search and rescue organization” means a search and rescue organization

(a) that is a member of the Search and Rescue Volunteer Association of Canada, the Civil Air Search and Rescue Association or the Canadian Coast Guard Auxiliary; or

(b) whose status as a search and rescue organization is recognized by a provincial, municipal or public authority;

“eligible search and rescue volunteer services”;

“eligible search and rescue volunteer services” means services (other than eligible volunteer firefighting services and excluded services) that are provided by an individual in the individual’s capacity as a volunteer to an eligible search and rescue organization and that consist primarily of responding to and being on call for search and rescue and related emergency calls, attending meetings held by the organization and participating in required training related to search and rescue services;

“eligible volunteer firefighting services”;

“eligible volunteer firefighting services” has the meaning assigned by section 752.0.10.0.4;

“excluded services”.

“excluded services” means services provided by an individual in the individual’s capacity as a volunteer to an organization to which the individual also provides search and rescue services otherwise than as a volunteer.

History: 2015, c. 24, s. 100.

Corresponding Federal Provision: 118.07(1).

Search and rescue volunteer tax credit.

752.0.10.0.7. An individual who provides eligible search and rescue volunteer services in a taxation year may deduct, from the individual’s tax otherwise payable for the year under this Part, an amount equal to the product obtained by multiplying \$3,000 by the percentage specified in paragraph *a* of section 750 that is applicable for the year if

(a) the individual performs in the year not less than 200 hours of service each of which is an hour of

i. eligible search and rescue volunteer service for an eligible search and rescue organization, or

ii. eligible volunteer firefighting service for a fire safety service;

(b) the individual files with the Minister, at the request of and in the manner determined by the Minister, a written certificate from the team president, or other individual who fulfils a similar role, of each eligible search and rescue organization to which the individual provided eligible search and rescue volunteer services in the year, attesting to the number of hours of such services performed in the year by the individual for that organization and, if applicable, the certificate referred to in paragraph *b* of section 752.0.10.0.5 in respect of the eligible volunteer firefighting services performed by the individual in the year; and

(c) the individual has not deducted an amount under section 752.0.10.0.5 for the year.

History: 2015, c. 24, s. 100.

Corresponding Federal Provision: 118.07(2).

CHAPTER I.0.2.0.4

TAX CREDIT FOR FIRST-TIME HOME BUYERS

Definitions :

752.0.10.0.8. In this chapter,

“dwelling”;

“dwelling” means, as the case may be,

(a) a housing unit; or

(b) a share of the capital stock of a housing cooperative, the holder of which is entitled to possession of a housing unit;

“eligible dwelling”;

“eligible dwelling” in relation to an individual means a dwelling situated in Québec that is acquired at a particular time after 31 December 2017

(a) by the individual or the individual’s spouse where the dwelling is a first housing unit in respect of the individual and the latter intends to make it the individual’s principal place of residence not later than one year after the particular time; or

(b) by the individual where the latter intends to make it, not later than one year after the particular time, the principal place of residence of a specified disabled person in respect of the individual at the particular time and the main purpose for which the individual acquired the dwelling is to enable the specified disabled person to live

i. in a dwelling that is more accessible by that person or in which that person is more mobile or can more easily perform tasks of daily living, or

ii. in an environment better suited to the personal needs and care of that person;

“first housing unit”;

“first housing unit” in respect of an individual means a particular dwelling acquired by the individual or the individual’s spouse where

(a) the individual did not own, alone or jointly, a dwelling in which the individual lived in the period that began on the first day of the fourth preceding calendar year ending before the acquisition of the particular dwelling and that ends on the day preceding the day of the acquisition of the particular dwelling; and

(b) the individual’s spouse did not, in the period described in paragraph *a*, own, alone or jointly, a dwelling in which the individual lived during their marriage;

“specified disabled person”.

“specified disabled person”, in respect of an individual at a particular time, means a person who

(a) is the individual or is, at the particular time, related to the individual; and

(b) is entitled to a deduction under section 752.0.14 in computing the person’s tax payable for the person’s taxation year that includes the particular time, or would be entitled to the deduction if no individual included, in computing a deduction under section 752.0.11 for that year, an amount in respect of remuneration for an attendant or care in a nursing home in respect of the person, or is a person in respect of whom an amount is deemed to be an overpayment of the tax payable of an individual for the month that includes the particular time under section 1029.8.61.18 by reason of subparagraph *b* of the second paragraph of that section.

Special rules.

For the purposes of the definitions of “eligible dwelling” and “first housing unit” in the first paragraph, the following rules apply:

(a) a person is considered to have acquired a dwelling described in paragraph *a* of the definition of “dwelling” in the first paragraph on the first day on which the person’s right in the dwelling is published in the land register and the dwelling is habitable;

(b) a reference to a share described in paragraph *b* of the definition of “dwelling” in the first paragraph means the housing unit to which that share relates and the person who owns that share is considered to have acquired that dwelling on the first day on which the right conferred by that share is published in the land register and the housing unit is habitable;

(c) a person is not considered to be the spouse of an individual at a particular time if the person is living separate and apart from the individual at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time;

(d) where an individual would, but for this subparagraph, have more than one spouse at a particular time, the individual is deemed, at that time, to have only one spouse and to be the spouse of that person only; and

(e) where a person would, but for this subparagraph, be the spouse of more than one individual at a particular time, the Minister may designate which of the individuals is deemed to have that person as sole spouse at that time and that person is deemed to be the spouse at that time solely of the individual so designated.

History: 2019, c. 14, s. 221; 2020, c. 16, s. 104.

Tax credit for first-time home buyers.

752.0.10.0.9. An individual (other than a trust) who is resident in Québec at the end of a taxation year may, if an eligible dwelling in relation to the individual is acquired in that year, deduct, from the individual’s tax otherwise payable

for that year under this Part, an amount equal to the product obtained by multiplying \$5,000 by the rate specified in paragraph *a* of section 750 that is applicable for the year.

Presumption.

For the purposes of the first paragraph, where an individual dies or ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is the day of the individual's death or the last day the individual was resident in Canada, as the case may be.

History: 2019, c. 14, s. 221.

Limit.

752.0.10.0.10. Where more than one individual may deduct, from their tax otherwise payable for a taxation year, an amount under section 752.0.10.0.9 in relation to the acquisition of an eligible dwelling, the total of the amounts that each of the individuals may deduct for the year under that section, in relation to the acquisition, may not exceed the particular amount obtained by multiplying \$5,000 by the rate specified in paragraph *a* of section 750 that is applicable for the year.

Designation.

Where the individuals cannot agree as to what portion of the particular amount each may deduct for the year under section 752.0.10.0.9, in relation to the acquisition, the Minister may determine what portion of that particular amount each individual may deduct under that section for the year.

History: 2019, c. 14, s. 221.

CHAPTER I.0.2.1
TAX CREDITS FOR GIFTS

Definitions:

752.0.10.1. In this chapter,

“eligible agricultural product”;

“eligible agricultural product” means a product from a recognized farming business that is included in categories of meat or meat by-products, eggs, dairy products, fish, fruits, vegetables, grains, legumes, herbs, honey, maple syrup, mushrooms, nuts or anything else that is grown, raised or harvested and may legally be sold, distributed or offered for sale at a place other than the place where it is produced as food or drink intended for human consumption;

“eligible cultural donee”;

“eligible cultural donee” means

- (a) a registered charity operating in Québec in the field of arts or culture;
- (b) a registered cultural or communications organization;
- (c) a registered museum;

(d) a museum established under the National Museums Act (chapter M-44); or

(e) a museum situated in Québec and established under the Museums Act (Statutes of Canada, 1990, chapter 3);

“eligible food product”;

“eligible food product” means milk, oil, flour, sugar, frozen vegetables, pasta, prepared meals, baby foods and infant formula;

“excepted gift”;

“excepted gift” of an individual means the gift of a share made by the individual if

- (a) the donee is not a private foundation;
- (b) where the individual is the succession of a particular individual that is a graduated rate estate, the particular individual dealt at arm's length with the donee immediately before the particular individual's death and the succession of the particular individual that is a graduated rate estate deals at arm's length with the donee (determined without reference to paragraph *b* of section 18), or, in any other case, the individual deals at arm's length with the donee; and
- (c) where the donee is a charitable organization or a public foundation, the individual deals at arm's length with each director, trustee, officer and like official of the donee;

“major cultural gift”;

“major cultural gift” of an individual, other than a trust, for a particular taxation year means the eligible amount of a gift of money, up to \$25,000, made by the individual after 3 July 2013 or by the individual's succession after 31 December 2015, provided the gift is made before 1 January 2023 to an eligible cultural donee and the following conditions are met in respect of the gift:

- (a) the eligible amount of the gift is at least \$5,000;
- (b) the conditions set out in section 752.0.10.2.1 are met in respect of the eligible amount of the gift; and
- (c) the gift is made
 - i. by the individual in the particular year or in any of the four preceding taxation years,
 - ii. by the individual in the year of the individual's death if the particular year is the taxation year that precedes the year of the death, or
 - iii. by the individual's succession if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is the taxation year in which the individual dies or the preceding taxation year;

“non-qualifying security”;

“non-qualifying security” of an individual at any time means

- (a) an obligation, other than an obligation of a financial institution described in the third paragraph to repay an amount deposited with the institution or an obligation listed on a designated stock exchange, of the individual or the

individual's succession or of any person or partnership with whom or with which the individual or the succession does not deal at arm's length immediately after that time;

(b) a share, other than a share listed on a designated stock exchange, of the capital stock of a corporation with which the individual or the succession or, if the individual is a trust, a person affiliated with the trust, does not deal at arm's length immediately after that time;

(b.1) a beneficial interest of the individual or the succession in a trust that

i. immediately after that time is affiliated with the individual or the succession, or

ii. holds, immediately after that time, a non-qualifying security of the individual or succession, or held, at or before that time, a share described in paragraph *b* that is, after that time, held by the donee; or

(c) any other security, other than a security listed on a designated stock exchange, issued or contracted by the individual or the succession or by any person or partnership with which the individual or the succession does not deal at arm's length immediately after that time or, if the person is a trust, with which the individual or the succession is affiliated immediately after that time;

“patronage gift”;

“patronage gift” of an individual, other than a trust, means a gift of money made in the same taxation year by the individual after 3 July 2013, or by the individual's succession after 31 December 2015, to an eligible cultural donee if the eligible amount of the gift is

(a) at least \$25,000, where the gift is made in satisfaction of a registered pledge; or

(b) at least \$250,000, in any other case;

“qualified property”;

“qualified property” means property that is

(a) land situated in Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value;

(b) a personal servitude which has a term of not less than 100 years or a real servitude granted for the benefit of land belonging to an entity referred to in any of subparagraphs i to ii.1 of paragraph *b* of the definition of “total gifts of qualified property” and encumbering the whole or part of land situated in Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value;

(c) land situated in a region bordering on Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value, the preservation and conservation of which is important to the protection and development of Québec's ecological heritage; or

(d) a personal servitude which has a term of not less than 100 years or a real servitude granted for the benefit of land belonging to an entity referred to in any of subparagraphs iii to vi of paragraph *b* of the definition of “total gifts of qualified property” and encumbering the whole or part of land situated in a region bordering on Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value, the preservation and conservation of which is important to the protection and development of Québec's ecological heritage;

“recognized farm producer”;

“recognized farm producer” means an individual who carries on a recognized farming business or an individual who is a member of a partnership that carries on such a business;

“recognized farming business”;

“recognized farming business” means an agricultural operation registered with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation in accordance with a regulation under section 36.0.1 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (chapter M-14);

“registered pledge”;

“registered pledge” means a pledge recorded by the Minister of Culture and Communications in the register created by that Minister under section 752.0.10.15.4;

“total charitable gifts”;

“total charitable gifts” of an individual for a particular taxation year means the aggregate of all amounts each of which is the eligible amount of a gift (other than a gift all or part of the eligible amount of which is included in the total cultural gifts, total gifts of qualified property or total musical instrument gifts of an individual for a taxation year or a gift the eligible amount of which is taken into account in computing the amount an individual deducts under section 752.0.10.6.2, for a taxation year), in respect of which the following conditions are met:

(a) the gift is made to a qualified donee;

(b) the gift is made,

i. where the individual is not a trust,

(1) by the individual in the particular year or in any of the five preceding taxation years,

(2) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or

(3) by the individual's succession if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is the taxation year in which the individual dies or the preceding taxation year, or

ii. where the individual is a trust,

(1) by the trust in the particular year or in any of the five preceding taxation years,

(2) by the trust if the trust is an individual's succession, if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is a taxation year in which the succession is the succession of the individual that is a graduated rate estate and that precedes the taxation year in which the gift is made, or

(3) by the trust if the end of the particular year is determined under subparagraph *a* of the first paragraph of section 663.0.1 because of an individual's death, if the gift is made after the particular year and on or before the trust's filing-due date for the particular year and if the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; and

(c) the conditions of section 752.0.10.2 are met in respect of the eligible amount of the gift;

“total cultural gifts”;

“total cultural gifts” of an individual for a particular taxation year means the aggregate of all amounts each of which is the eligible amount of a gift (other than a gift all or part of the eligible amount of which is included in the total musical instrument gifts of an individual for a taxation year), in respect of which the following conditions are met:

(a) the gift is made to

i. an institution or public authority referred to in subparagraph *a* of the third paragraph of section 232, where the subject of the gift is a cultural property described in that paragraph, or

ii. a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act, a certified archival centre or a recognized museum, if the gift has as its subject a cultural property described in subparagraph *c* of the third paragraph of section 232, unless it is also described in subparagraph *a* of that third paragraph;

(b) the gift is made,

i. where the individual is not a trust,

(1) by the individual in the particular year or in any of the five preceding taxation years,

(2) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or

(3) by the individual's succession if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is the taxation year in which the individual dies or the preceding taxation year, or

ii. where the individual is a trust,

(1) by the trust in the particular year or in any of the five preceding taxation years,

(2) by the trust if the trust is an individual's succession, if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is a taxation year in which the succession is the succession of the individual that is a graduated rate estate and that precedes the taxation year in which the gift is made, or

(3) by the trust if the end of the particular year is determined under subparagraph *a* of the first paragraph of section 663.0.1 because of an individual's death, if the gift is made after the particular year and on or before the trust's filing-due date for the particular year and if the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; and

(c) the conditions of section 752.0.10.2 are met in respect of the eligible amount of the gift;

“total gifts of qualified property”;

“total gifts of qualified property” of an individual for a particular taxation year means the aggregate of all amounts each of which is the eligible amount of a gift (other than a gift all or part of the eligible amount of which is included in the total cultural gifts of an individual for a taxation year), in respect of which the following conditions are met:

(a) the fair market value of the gift is certified by the Minister of Sustainable Development, Environment and Parks;

(b) the gift is made to any of the following entities that is, except in the case provided for in subparagraph *v*, a qualified donee:

i. a registered charity (other than a private foundation) whose mission in Québec, at the time of the gift, consists mainly, in the opinion of the Minister of Sustainable Development, Environment and Parks, in the conservation of the ecological heritage and that is, in the opinion of that Minister, an appropriate donee in the circumstances, if the subject of the gift is property referred to in paragraph *a* or *b* of the definition of “qualified property”;

ii. the State or Her Majesty in right of Canada, if the subject of the gift is property referred to in paragraph *a* or *b* of the definition of “qualified property”;

ii.1. a municipality in Québec or a municipal or public body performing a function of government in Québec that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances, if the subject of the gift is property referred to in paragraph *a* or *b* of the definition of “qualified property”;

- iii. a registered charity (other than a private foundation) one of whose main missions, at the time of the gift, consists, in the opinion of the Minister of the Environment of Canada, in the conservation and protection of Canada's environmental heritage and that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances, if the subject of the gift is property referred to in paragraph *c* or *d* of the definition of "qualified property",
- iv. the State or Her Majesty in right of Canada or a province, other than Québec, if the subject of the gift is property referred to in paragraph *c* or *d* of the definition of "qualified property",
- iv.1. a municipality in Canada or a municipal or public body performing a function of government in Canada that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances, if the subject of the gift is property referred to in paragraph *c* or *d* of the definition of "qualified property",
- v. the United States or any state of that country, if the subject of the gift is property referred to in paragraph *c* or *d* of the definition of "qualified property", or
- vi. a municipality in the United States or a municipal or public body performing a function of government in the United States that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances, if the subject of the gift is property referred to in paragraph *c* or *d* of the definition of "qualified property";
- (c) the gift is made,
- i. where the individual is not a trust,
- (1) by the individual in the particular year or in any of the 10 preceding taxation years,
- (2) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or
- (3) by the individual's succession if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is the taxation year in which the individual dies or the preceding taxation year, or
- ii. where the individual is a trust,
- (1) by the trust in the particular year or in any of the 10 preceding taxation years,
- (2) by the trust if the trust is an individual's succession, if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is a taxation year in which the succession is the succession of the individual that is a graduated rate estate and that precedes the taxation year in which the gift is made, or
- (3) by the trust if the end of the particular year is determined under subparagraph *a* of the first paragraph of section 663.0.1 because of an individual's death, if the gift is made after the particular year and on or before the trust's filing-due date for the particular year and if the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; and
- (d) the conditions of section 752.0.10.2 are met in respect of the eligible amount of the gift;
- "total musical instrument gifts";**
- "total musical instrument gifts" of an individual for a particular taxation year means the aggregate of all amounts each of which is the eligible amount of a gift the subject of which is a musical instrument, in respect of which the following conditions are met:
- (a) the gift is made to any of the following entities that is situated in Québec:
- i. an elementary or secondary educational institution to which the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) applies,
- ii. a college governed by the General and Vocational Colleges Act (chapter C-29),
- iii. a private educational institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1),
- iv. an educational institution at the university level within the meaning of the Act respecting educational institutions at the university level (chapter E-14.1), and
- v. an institution providing instruction in music and forming part of the network of the Conservatoire de musique et d'art dramatique du Québec;
- (b) the gift is made,
- i. where the individual is not a trust,
- (1) by the individual in the particular year or in any of the five preceding taxation years,
- (2) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or
- (3) by the individual's succession if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is the taxation year in which the individual dies or the preceding taxation year, or

ii. where the individual is a trust,

(1) by the trust in the particular year or in any of the five preceding taxation years,

(2) by the trust if the trust is an individual's succession, if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is a taxation year in which the succession is the succession of the individual that is a graduated rate estate and that precedes the taxation year in which the gift is made, or

(3) by the trust if the end of the particular year is determined under subparagraph *a* of the first paragraph of section 663.0.1 because of an individual's death, if the gift is made after the particular year and on or before the trust's filing-due date for the particular year and if the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; and

(c) the conditions of paragraph *b* of section 752.0.10.2 are met in respect of the eligible amount of the gift;

“total patronage gifts”.

“total patronage gifts” of an individual, other than a trust, for a particular taxation year means the aggregate of all amounts each of which is the eligible amount of a patronage gift (other than a gift the eligible amount of which was taken into account in computing the amount deducted by an individual for a taxation year under section 752.0.10.6 or 752.0.10.6.1), in respect of which the following conditions are met:

(a) the gift is made

i. by the individual in the particular year or in any of the five preceding taxation years,

ii. by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or

iii. by the individual's succession if section 752.0.10.10.0.1 applies in respect of the gift and if the particular year is the taxation year in which the individual dies or the preceding taxation year; and

(b) the conditions of section 752.0.10.2.2 are met in respect of the eligible amount of the gift.

Region bordering on Québec.

For the purposes of paragraphs *c* and *d* of the definition of “qualified property” in the first paragraph, a region bordering on Québec is a province or a state of the United States sharing a common border with Québec.

Processed product.

For the purposes of the definition of “eligible agricultural product” in the first paragraph, a processed product may be considered to be an eligible agricultural product only if the

product was processed no more than to the extent necessary so that it is permitted to be legally sold, distributed or offered for sale at a place other than the place where it is produced as food or drink intended for human consumption.

“financial institution”.

For the purposes of paragraph *a* of the definition of “non-qualifying security” in the first paragraph, “financial institution” means a corporation that is

(a) a member of the Canadian Payments Association; or

(b) a savings and credit union that is a member or shareholder of a body corporate, in this Act referred to as a corporation, or organization that is a central for the purposes of the Canadian Payments Act (Revised Statutes of Canada, 1985, chapter C-21).

History: 1993, c. 64, s. 67; 1994, c. 22, s. 350; 1995, c. 1, s. 73; 1995, c. 49, s. 173; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1998, c. 16, s. 251; 1999, c. 36, s. 160(1); O.C. 1312-99; 1999, c. 83, s. 90; 2000, c. 5, s. 162; 2001, c. 7, s. 169; 2003, c. 2, s. 211; 2003, c. 9, s. 77; 2004, c. 21, s. 194; 2005, c. 23, s. 94; 2006, c. 3, s. 35; 2006, c. 36, s. 65; 2009, c. 5, s. 279; 2009, c. 15, s. 137; 2010, c. 5, s. 59; 2012, c. 8, s. 114; 2015, c. 21, s. 277; 2015, c. 24, s. 101; 2015, c. 36, s. 45; 2017, c. 1, s. 189; 2017, c. 29, s. 132; 2019, c. 14, s. 222; 2020, c. 7, s. 40 [in force: O.C. 1154-2020].

Corresponding Federal Provision: 118.1(1).

Multiple gifts to the same eligible cultural donee.

752.0.10.11. For the purposes of the definitions of “patronage gift” and “major cultural gift” in the first paragraph of section 752.0.10.1, where an individual, other than a trust, makes several gifts of money in a taxation year to the same eligible cultural donee, the aggregate of the gifts is deemed to be a single gift, in the year to that donee, the eligible amount of which is equal to the aggregate of all amounts each of which is the eligible amount of each of the gifts.

History: 2015, c. 21, s. 278.

Amount deducted in a preceding year.

752.0.10.2. The conditions to which the definitions of “total charitable gifts”, “total Crown gifts”, “total cultural gifts”, “total gifts of qualified property” and “total musical instrument gifts” in the first paragraph of section 752.0.10.1 refer in respect of an amount for a taxation year in relation to an individual are as follows:

(a) the amount was not deducted in computing the individual's taxable income for a taxation year ending before 1 January 1993;

(b) the amount was not taken into account in determining an amount that was deducted under section 752.0.10.6 in computing an individual's tax payable under this Part for a

taxation year, or in determining an amount that was deducted under section 118.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing an individual's tax payable under that Act for a taxation year in respect of which the individual was not subject to tax under this Part.

History: 1993, c. 64, s. 67; 1995, c. 1, s. 74 [amended by 1995, c. 63, s. 544]; 1997, c. 14, s. 112; 2015, c. 21, s. 279; 2017, c. 29, s. 133.

Corresponding Federal Provision: 118.1(1).

Amount deducted in a preceding year in relation to a major cultural gift.

752.0.10.2.1. The conditions to which the definition of "major cultural gift" in the first paragraph of section 752.0.10.1 refers in respect of an amount for a taxation year in relation to an individual, other than a trust, are as follows:

(a) the amount was not taken into account in determining an amount that was deducted under section 752.0.10.6.1 in computing the individual's tax payable under this Part for a preceding taxation year; and

(b) the amount was not taken into account in determining an amount that was deducted under section 118.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the individual's tax payable under that Act for a preceding taxation year in respect of which the individual was not subject to tax under this Part.

History: 2015, c. 21, s. 280.

Amount deducted in a preceding year in relation to a patronage gift.

752.0.10.2.2. The conditions to which the definition of "total patronage gifts" in the first paragraph of section 752.0.10.1 refers in respect of an amount for a taxation year in relation to an individual, other than a trust, are as follows:

(a) the amount was not taken into account in determining an amount that was deducted under section 752.0.10.6.2 in computing the individual's tax payable under this Part for a preceding taxation year; and

(b) the amount was not taken into account in determining an amount that was deducted under section 118.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the individual's tax payable under that Act for a preceding taxation year in respect of which the individual was not subject to tax under this Part.

History: 2015, c. 21, s. 280.

Proof of gift.

752.0.10.3. The amount that is the eligible amount of a gift may not be considered to be a major cultural gift for a taxation year or included in the total charitable gifts, total cultural gifts, total gifts of qualified property, total musical

instrument gifts or total patronage gifts of an individual for a taxation year, unless the making of the gift is proven by

(a) a receipt for the gift filed with the Minister that meets the prescribed requirement and contains in a clear and unalterable manner the prescribed statement and the prescribed information; and

(b) in the case of a gift described in subparagraph i of paragraph a of the definition of "total cultural gifts" in the first paragraph of section 752.0.10.1, the certificate issued under subsection 1 of section 33 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51).

Registration number of pledge.

If a patronage gift is made in satisfaction of a pledge made by an individual, the amount that is the eligible amount of the gift may not be included in the total patronage gifts of the individual for a taxation year unless the individual provides the registration number of the pledge.

History: 1993, c. 64, s. 67; 1994, c. 22, s. 258; 1995, c. 1, s. 75; 1995, c. 49, s. 236; 2003, c. 2, s. 212; 2006, c. 36, s. 66; 2009, c. 5, s. 280; 2015, c. 21, s. 281; 2017, c. 1, s. 190; 2017, c. 29, s. 134.

Corresponding Federal Provision: 118.1(2).

Spoiled receipt form.

752.0.10.3.1. An organization or a donee shall meet the prescribed requirements in respect of a spoiled receipt form.

Meaning of certain words.

For the purposes of the first paragraph, "donee", "receipt form" and "organization" have the meanings assigned by the regulations under section 752.0.10.3.

History: 1994, c. 22, s. 259.

Corresponding Federal Provision: 3501(5) I.T.R.

Fair market value of a servitude.

752.0.10.3.2. For the purpose of applying subparagraph ii of paragraph c of section 422, section 436 and this chapter in respect of a gift made by an individual the subject of which is a qualified property, the fair market value of the gift at the time the gift was made or, for the purposes of section 752.0.10.12, the fair market value otherwise determined of the gift at that time and, subject to section 752.0.10.12, the individual's proceeds of disposition of the property that is the subject of the gift, are deemed to be equal to the amount determined by the Minister of Sustainable Development, Environment and Parks to be

(a) where the subject of the gift is land, the fair market value of the gift; or

(b) where the subject of the gift is a servitude referred to in paragraph b or d of the definition of "qualified property" in

the first paragraph of section 752.0.10.1, the greater of its fair market value otherwise determined and the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude.

History: 1999, c. 83, s. 91; 2003, c. 2, s. 213; 2003, c. 9, s. 78; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(12).

Fair market value of cultural property.

752.0.10.4. For the purposes of the definition of “total cultural gifts” in the first paragraph of section 752.0.10.1,

(a) the fair market value of a cultural property described in subparagraph *a* of the third paragraph of section 232 is deemed to be the value determined by the Canadian Cultural Property Export Review Board or, where an appeal has been instituted under subsection 1 of section 33.1 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51), the fair market value deemed to have been determined by the Board, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), under subsection 2 of that section 33.1; and

(b) the fair market value of a cultural property described in subparagraph *c* of the third paragraph of section 232 is deemed to be the value determined by the Conseil du patrimoine culturel du Québec.

History: 1993, c. 64, s. 67; 1997, c. 85, s. 126; 2003, c. 9, s. 79; 2005, c. 23, s. 95; 2011, c. 21, s. 232.

Corresponding Federal Provision: 118.1(10).

Fair market value.

752.0.10.4.0.1. For the purposes of subparagraph ii of paragraph *c* of section 422, section 436 and this chapter, where at any time the Canadian Cultural Property Export Review Board or the Minister of Sustainable Development, Environment and Parks, as the case may be, determines or redetermines an amount to be the fair market value of a property that is the subject of a gift described in the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1 made by a taxpayer within the two-year period that begins at that time, the last amount so determined or redetermined within the period is deemed to be the fair market value of the property at the time the gift was made and, subject to sections 752.0.10.12 and 752.0.10.14, to be the taxpayer’s proceeds of disposition of the property.

History: 2001, c. 53, s. 114; 2003, c. 2, s. 214; 2006, c. 3, s. 35; 2011, c. 21, s. 232; 2015, c. 21, s. 282; 2017, c. 29, s. 135.

Corresponding Federal Provision: 118.1(10.1).

Fair market value.

752.0.10.4.0.1.1. Despite section 752.0.10.4.0.1, for the purposes of paragraph *a* of section 422, subparagraph ii of paragraph *c* of that section, section 436 and this chapter,

where the Minister of Culture and Communications determines an amount to be the fair market value of a property that is the subject of a gift made by an individual on or before the day that is two years after the time that amount is determined and referred to in the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1, the following rules apply:

(a) the amount so determined is deemed to be the fair market value of the property at the time of the gift or, for the purposes of sections 752.0.10.12 and 752.0.10.14, its fair market value otherwise determined at that time; and

(b) subject to sections 752.0.10.12 and 752.0.10.14, the amount so determined is deemed to be the individual’s proceeds of disposition of the property.

History: 2015, c. 21, s. 283; 2017, c. 29, s. 136.

Notice in writing.

752.0.10.4.0.2. An individual may request by notice in writing to the Minister of Sustainable Development, Environment and Parks a determination of the fair market value of a property the individual disposes of or proposes to dispose of and that would, if the disposition were made and the certificates described in section 752.0.10.7.1 were issued by the Minister of Sustainable Development, Environment and Parks in respect of the property, be a gift described in the definition of “total gifts of qualified property” in the first paragraph of section 752.0.10.1.

History: 2003, c. 2, s. 215; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.2).

Determination in writing.

752.0.10.4.0.3. The Minister of Sustainable Development, Environment and Parks shall with all due dispatch make a determination in accordance with section 752.0.10.3.2 of the fair market value of the property that is the subject of the request referred to in section 752.0.10.4.0.2 and give notice of the determination in writing to the individual who has disposed of, or who proposes to dispose of, the property.

Time for request.

However, no such determination shall be made if the request is received by the Minister of Sustainable Development, Environment and Parks after three years after the end of the individual’s taxation year in which the disposition occurred.

History: 2003, c. 2, s. 215; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.3).

Rules applicable.

752.0.10.4.0.4. Where the Minister of Sustainable Development, Environment and Parks has, in accordance with section 752.0.10.4.0.3, notified an individual of the amount determined to be the fair market value of a property

the individual has disposed of or proposes to dispose of, the following rules apply:

(a) on receipt of a written request made by the individual on or before the day that is 90 days after the day that the individual was so notified, the Minister of Sustainable Development, Environment and Parks shall with all due dispatch confirm or redetermine the fair market value;

(b) the Minister of Sustainable Development, Environment and Parks may, on that Minister's own initiative, at any time redetermine the fair market value;

(c) in the cases referred to in paragraphs *a* and *b*, the Minister of Sustainable Development, Environment and Parks shall notify the individual in writing of that Minister's confirmation or redetermination; and

(d) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair market value of the property from the time at which the first such determination was made.

History: 2003, c. 2, s. 215; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.4).

Certificate.

752.0.10.4.0.5. Where the Minister of Sustainable Development, Environment and Parks determines in accordance with section 752.0.10.4.0.3 the fair market value of a property, or redetermines that fair market value in accordance with section 752.0.10.4.0.4, and the property has been disposed of to a qualified donee described in the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1, the Minister shall issue to the individual who made the disposition a certificate that states the fair market value of the property so determined or redetermined.

Last certificate issued.

Where the Minister of Sustainable Development, Environment and Parks has issued more than one certificate in respect of the same property, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued.

History: 2003, c. 2, s. 215; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.5).

Request for determination by the Minister of Culture and Communications.

752.0.10.4.0.6. An individual may request, by notice in writing to the Minister of Culture and Communications, a determination of the fair market value of a property (other than a cultural property described in the third paragraph of section 232) the individual disposes of or proposes to dispose of and that would, if the disposition were made and the documents referred to in section 752.0.10.15.3 were issued

by the Minister of Culture and Communications in respect of the property, be a gift described in subparagraph *b* of the second paragraph of section 752.0.10.15.1 or in section 752.0.10.15.2.

History: 2015, c. 21, s. 284.

Duty of the Minister of Culture and Communications.

752.0.10.4.0.7. The Minister of Culture and Communications shall with all due dispatch make a determination of the fair market value of a property that is the subject of a request referred to in section 752.0.10.4.0.6 and give notice of the determination in writing to the individual who has disposed of, or who proposes to dispose of, the property.

Time frame.

However, no such determination is made if the request is received by the Minister of Culture and Communications more than three years after the end of the individual's taxation year in which the disposition occurred.

History: 2015, c. 21, s. 284.

Redetermination.

752.0.10.4.0.8. Where the Minister of Culture and Communications has, in accordance with section 752.0.10.4.0.7, notified an individual of the amount determined to be the fair market value of a property the individual has disposed of or proposes to dispose of, the following rules apply:

(a) on receipt of a written request made by the individual on or before the day that is 90 days after the day that the individual was so notified, the Minister of Culture and Communications shall with all due dispatch confirm or redetermine the fair market value;

(b) the Minister of Culture and Communications may, on that Minister's own initiative, at any time redetermine the fair market value;

(c) in the cases referred to in paragraphs *a* and *b*, the Minister of Culture and Communications shall notify the individual in writing of the confirmation or redetermination; and

(d) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair market value of the property from the time at which the first such determination was made.

History: 2015, c. 21, s. 284.

Certificate of fair market value.

752.0.10.4.0.9. Where the Minister of Culture and Communications determines the fair market value of a property in accordance with section 752.0.10.4.0.7, or

redetermines that fair market value in accordance with section 752.0.10.4.0.8, and the property has been the subject of a gift described in subparagraph *b* of the second paragraph of section 752.0.10.15.1 or in section 752.0.10.15.2, that Minister shall issue to the individual who made the disposition a certificate that states the fair market value of the property so determined or redetermined and send a copy of that certificate to the donee and the Minister.

Certificate of fair market value.

Where the Minister of Culture and Communications has issued more than one certificate in respect of the same property, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued.

History: 2015, c. 21, s. 284.

Assessments.

752.0.10.4.1. Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest or penalties payable under this Part for any taxation year as are necessary to give effect

(a) to a certificate issued under section 105 of the Cultural Heritage Act (chapter P-9.002) or to a decision of a court resulting from a contestation under section 107 of that Act;

(b) to a certificate issued under subsection 1 of section 33 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51) or to a decision of a court resulting from an appeal under subsection 1 of section 33.1 of that Act; or

(c) to a certificate issued under section 752.0.10.4.0.5 or 752.0.10.4.0.9 or to a decision of a court resulting from a contestation under section 93.1.15.2 or 93.1.15.3 of the Tax Administration Act (chapter A-6.002).

History: 1997, c. 85, s. 127; 2003, c. 2, s. 216; 2010, c. 31, s. 175; 2011, c. 21, s. 233; 2015, c. 21, s. 285; 2020, c. 12, s. 144.

Corresponding Federal Provision: 118.1(11).

Recognized gift with reserve of usufruct or use.

752.0.10.4.2. For the purposes of this chapter, the following rules apply:

(a) the gift of the bare ownership of a work of art or a cultural property described in the third paragraph of section 232 and made in the course of a recognized gift with reserve of usufruct or use is deemed to be, subject to section 752.0.10.11.1, the gift of a work of art or of such a cultural property; and

(b) the fair market value of a recognized gift with reserve of usufruct or use, in relation to a work of art or a cultural property described in the third paragraph of section 232, is

deemed to be equal to the product obtained by multiplying the amount of the fair market value of the work of art or of the cultural property, as the case may be, otherwise determined with reference to sections 752.0.10.4, 752.0.10.4.0.1, 752.0.10.4.0.1.1, 752.0.10.11.2 and 752.0.10.18 by the appropriate percentage determined in section 752.0.10.4.3.

History: 2003, c. 9, s. 80; 2015, c. 21, s. 286.

Appropriate percentage.

752.0.10.4.3. The percentage to which section 752.0.10.4.2 refers, in respect of a recognized gift with reserve of usufruct or use is

(a) where the usufruct or right of use is established for the lifetime of the individual who made the gift,

- i. 25% where the individual is under 25 years of age,
- ii. 31% where the individual is at least 25 years of age and under 30 years of age,
- iii. 38% where the individual is at least 30 years of age and under 35 years of age,
- iv. 44% where the individual is at least 35 years of age and under 40 years of age,
- v. 50% where the individual is at least 40 years of age and under 45 years of age,
- vi. 56% where the individual is at least 45 years of age and under 50 years of age,
- vii. 62% where the individual is at least 50 years of age and under 55 years of age,
- viii. 68% where the individual is at least 55 years of age and under 60 years of age,
- ix. 73% where the individual is at least 60 years of age and under 65 years of age,

x. 78% where the individual is at least 65 years of age and under 70 years of age,

xi. 83% where the individual is at least 70 years of age and under 75 years of age,

xii. 87% where the individual is at least 75 years of age and under 80 years of age, and

xiii. 91% where the individual is at least 80 years of age; and

(b) where the usufruct or right of use is established for a fixed duration regardless of the lifetime of the individual who made the gift,

- i. 87% where the fixed duration is of 10 years or less,
- ii. 74% where the fixed duration is of 10 years or more and 20 years or less, and
- iii. 61% in any other case.

History: 2003, c. 9, s. 80.

Commuter's charitable gift.

752.0.10.5. For the purposes of the definition of "total charitable gifts" in the first paragraph of section 752.0.10.1, where, throughout a taxation year, an individual resides in Canada near the boundary between Canada and the United States and where, in that year, the individual makes a gift to a prescribed religious, scientific, literary, educational or charitable organization created or organized in or under the laws of the United States that would be deductible under the United States Internal Revenue Code of 1986, as amended from time to time, he is deemed to have made the gift to a registered charity, if he commutes regularly between his residence and his principal place of employment or business in the United States, and his chief source of income for the year is that employment or business.

History: 1993, c. 64, s. 67; 1994, c. 22, s. 260; 1995, c. 49, s. 236; 2005, c. 23, s. 96; 2009, c. 15, s. 138.

Corresponding Federal Provision: 118.1(9).

Ordering.

752.0.10.5.1. For the purpose of determining the total charitable gifts, total cultural gifts, total gifts of qualified property and total musical instrument gifts, no amount in respect of a gift described in any of the definitions of those expressions in the first paragraph of section 752.0.10.1 and made in a particular taxation year by an individual shall be taken into account in determining an amount that is deducted under section 752.0.10.6 in computing the tax payable under this Part by the individual for a taxation year until amounts in respect of such gifts made in taxation years preceding the particular year that can be so taken into account are so taken into account.

History: 1999, c. 83, s. 92; 2006, c. 36, s. 67; 2017, c. 1, s. 191.

Corresponding Federal Provision: 118.1(2.1).

Order of patronage gifts.

752.0.10.5.2. For the purpose of determining the total patronage gifts, no amount in respect of a patronage gift made in a particular taxation year by an individual may be taken into account in determining an amount that is deducted under section 752.0.10.6.2 in computing the tax payable under this Part by the individual for a taxation year until all amounts in respect of such a gift made in a taxation year preceding the particular year that can be so taken into account are so taken into account.

History: 2015, c. 21, s. 287.

Tax credit for gifts.

752.0.10.6. An individual may deduct from the individual's tax otherwise payable for a taxation year under this Part, an amount equal to

(a) for the taxation year 2000, any of the following amounts:

i. where the aggregate determined under the second paragraph does not exceed \$2,000, 22% of that aggregate,

ii. in any other case, the aggregate of \$440 and 25% of the amount by which the aggregate determined under the second paragraph exceeds \$2,000;

(b) for the taxation year 2001, any of the following amounts:

i. where the aggregate determined under the second paragraph does not exceed \$2,000, 20.75% of that aggregate,

ii. in any other case, the aggregate of \$415 and 24.5% of the amount by which the aggregate determined under the second paragraph exceeds \$2,000;

(c) for the taxation years 2002 to 2005, any of the following amounts:

i. where the aggregate determined under the second paragraph does not exceed \$2,000, 20% of that aggregate,

ii. in any other case, the aggregate of \$400 and 24% of the amount by which the aggregate determined under the second paragraph exceeds \$2,000;

(d) for the taxation years 2006 to 2016, any of the following amounts:

i. where the aggregate determined under the second paragraph does not exceed \$200, 20% of that aggregate,

ii. in any other case, the aggregate of \$40 and 24% of the amount by which the aggregate determined under the second paragraph exceeds \$200;

(e) from the taxation year 2017, the aggregate of

i. 20% of the lesser of \$200 and the aggregate determined under the second paragraph,

ii. where the individual is a trust, other than a qualified disability trust or a succession that is a graduated rate estate, 25.75% of the amount by which the aggregate determined under the second paragraph exceeds \$200 and, in any other case, 25.75% of the lesser of

(1) the amount by which the aggregate determined under the second paragraph exceeds \$200, and

(2) the amount by which the individual's taxable income for the year exceeds the amount referred to in paragraph *d* of section 750 in relation to the year, and

iii. 24% of the amount by which the aggregate determined under the second paragraph exceeds the aggregate of \$200 and the lesser of the amounts referred to in subparagraphs 1 and 2 of subparagraph ii, in relation to the individual for the year.

Computation of aggregate referred to in the first paragraph.

The aggregate to which the first paragraph refers is the aggregate of

- (a) *(subparagraph repealed)*;
- (b) the individual's total gifts of qualified property for the year;
- (c) the individual's total cultural gifts for the year;
- (d) the individual's total charitable gifts for the year; and
- (e) the individual's total musical instrument gifts for the year.

History: 1993, c. 64, s. 67; 1995, c. 1, s. 76; 1995, c. 49, s. 236; 1997, c. 85, s. 128; 1999, c. 83, s. 93; 2001, c. 51, s. 52; 2006, c. 36, s. 68; 2017, c. 1, s. 192; 2019, c. 14, s. 223.

Corresponding Federal Provision: 118.1(3).

Tax credit for major cultural gifts.

752.0.10.6.1. An individual, other than a trust, may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to 25% of a major cultural gift of the individual for the year.

Single gift.

No individual may benefit from the deduction provided for in the first paragraph for more than one major cultural gift.

History: 2015, c. 21, s. 288; 2017, c. 1, s. 193.

Tax credit for patronage gifts.

752.0.10.6.2. An individual, other than a trust, may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to 30% of the total patronage gifts of the individual for the year.

History: 2015, c. 21, s. 288; 2017, c. 1, s. 194.

Proof of a gift.

752.0.10.7. No individual may deduct, for a taxation year, an amount under section 752.0.10.6 in respect of a gift of a property referred to in subparagraph ii of paragraph *a* of the definition of "total cultural gifts" in the first paragraph of section 752.0.10.1 unless the individual files with the Minister, together with the fiscal return the individual is

required to file under section 1000 for the year, a certificate issued by the Conseil du patrimoine culturel du Québec stating that the property was acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44), a certified archival centre or a recognized museum, in accordance with its acquisition and conservation policy and with the directives of the Ministère de la Culture et des Communications, and specifying the fair market value of the property determined in accordance with section 752.0.10.4 and, if applicable, section 752.0.10.4.2.

History: 1993, c. 64, s. 67; 1995, c. 1, s. 199; 1996, c. 39, s. 273; 2003, c. 9, s. 81; 2005, c. 23, s. 97; 2004, c. 25, s. 70; O.C. 1295-2005; 2006, c. 36, s. 69; O.C. 1159-2008; 2011, c. 1, s. 39; 2011, c. 21, s. 232; 2017, c. 29, s. 137.

Filing certificates.

752.0.10.7.1. No individual may deduct, for a taxation year, an amount under section 752.0.10.6 in respect of a gift of a qualified property unless the individual files with the Minister, along with the fiscal return referred to in section 1000 the individual is required to file for the year, the following certificates issued by the Minister of Sustainable Development, Environment and Parks:

(a) the certificate certifying that

i. in the case of a gift whose subject is a property described in paragraph *a* or *b* of the definition of "qualified property" in the first paragraph of section 752.0.10.1, the land referred to in that paragraph *a* or the land encumbered with a servitude referred to in that paragraph *b*, as the case may be, has undeniable ecological value and, where such is the case, that the mission in Québec of a charity referred to in subparagraph i of paragraph *b* of the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1 consists mainly, at the time of the gift, in the conservation of the ecological heritage, and

ii. in the case of a gift whose subject is a property described in paragraph *c* or *d* of the definition of "qualified property" in the first paragraph of section 752.0.10.1, the land referred to in that paragraph *c* or the land encumbered with a servitude referred to in that paragraph *d*, as the case may be, has undeniable ecological value, the preservation and conservation of which is important to the protection and development of Québec's ecological heritage and, where such is the case, that a charity referred to in subparagraph iii of paragraph *b* of the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1 is an appropriate donee in the circumstances; and

(b) the certificate relating to the fair market value of a gift to which the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1 refers.

History: 1995, c. 1, s. 77; 1999, c. 36, s. 160(1); O.C. 1312-99; 2003, c. 2, s. 217; 2003, c. 9, s. 82; 2006, c. 3, s. 35; 2010, c. 25, s. 72; 2017, c. 29, s. 138.

Corresponding Federal Provision: 118.1(1) “total ecological gifts” and (2)(c).

Restriction.

752.0.10.8. No individual may deduct, for a taxation year, an amount under section 752.0.10.6 in respect of a gift, after 18 December 1990, of property that is a certified Québec film or a Québec film production, within the meaning assigned to those terms by the regulations under section 130, if the gift is made by him within a period of three years commencing on the day on which the property is acquired by him.

History: 1993, c. 64, s. 67.

Gift — death before 1 January 2016.

752.0.10.9. The gift that an individual who died before 1 January 2016 is deemed to have made at a time before the death, under this section or any of sections 752.0.10.10, 752.0.10.10.3, 752.0.10.10.5, 752.0.10.13 and 752.0.10.14 (as they read for the taxation year in which the death occurred), is deemed, for the purposes of this chapter, not to have been made by any other taxpayer or at any other time.

History: 1993, c. 64, s. 67; 1999, c. 83, s. 94; 2003, c. 2, s. 218; 2015, c. 21, s. 289; 2017, c. 29, s. 139.

Corresponding Federal Provision: 118.1(4).

Gift — death after 31 December 2015.

752.0.10.10. For the purposes of this Part, except for this paragraph and section 752.0.10.10.2, the rules set out in the second paragraph apply in respect of a gift if a succession arises on and as a consequence of the death after 31 December 2015 of an individual and the gift is

- (a) made by the individual by the individual’s will;
- (b) deemed under section 752.0.10.10.2 to have been made in respect of the death of the individual; or
- (c) made by the succession.

Gift — death after 31 December 2015.

The rules to which the first paragraph refers, in respect of a gift, are as follows:

- (a) the gift is deemed to be made by the succession and not by any other taxpayer; and
- (b) subject to section 752.0.10.16, the gift is deemed to be made at the time that the property that is the subject of the gift is transferred to the donee and not at any other time.

History: 1993, c. 64, s. 67; 1999, c. 83, s. 94; 2017, c. 29, s. 140.

Corresponding Federal Provision: 118.1(4.1) and (5).

Gift by graduated rate estate.

752.0.10.10.0.1. A gift in respect of which this section applies is a gift made by the succession that is a graduated rate estate, or by a succession that would be the succession that is a graduated rate estate if section 646.0.1 were read without reference to its paragraph *a*, of an individual whose death occurs after 31 December 2015, provided the gift is made no more than 60 months after the death, and either

(a) the gift is deemed under section 752.0.10.10.2 to be made in respect of the individual’s death; or

(b) the subject of the gift is property acquired by the succession on and as a consequence of the individual’s death or is property that was substituted for that property.

History: 2017, c. 29, s. 141.

Corresponding Federal Provision: 118.1(5.1).

Gift deemed made after death.

752.0.10.10.1. If, but for this section, an individual would be deemed under section 752.0.10.16 to have made a gift after the individual’s death, for the purposes of this chapter the individual is deemed to have made the gift in the taxation year in which the individual died.

Interest payable.

Any amount of interest payable under this Act must be determined as if the presumption provided in the first paragraph did not apply.

History: 1999, c. 83, s. 95.

Deemed gift — eligible transfer.

752.0.10.10.2. For the purposes of this chapter, money or a negotiable instrument transferred to a qualified donee is deemed to be property that is the subject of a gift, in respect of an individual’s death, made to the qualified donee, if the death occurs after 31 December 2015, the transfer is made as a consequence of the death, and the transfer is

(a) a transfer—other than a transfer the amount of which is not included in computing the income of the individual or the individual’s succession for a taxation year but would have been included, but for section 430, in computing the income of the individual or the individual’s succession for a taxation year if the transfer had been made to the individual’s legal representative for the benefit of the individual’s succession—made

i. solely because of the obligations under a life insurance policy under which, immediately before the individual’s death, the individual’s life was insured and the individual’s consent would have been required to change the recipient of the transfer, and

ii. from an insurer to a person that is the qualified donee and that was, immediately before the individual's death, neither a policyholder under the policy nor an assignee of the individual's interest under the policy; or

(b) a transfer made

i. solely because of the donee's right as a beneficiary under an arrangement (other than an arrangement of which a licensed annuities provider is the issuer or carrier)

(1) that is a registered retirement savings plan or registered retirement income fund or that was, immediately before the death, a tax-free savings account, and

(2) under which the individual was, immediately before the individual's death, the annuitant or holder, and

ii. from the arrangement to the qualified donee.

History: 2003, c. 2, s. 219; 2017, c. 29, s. 142; 2020, c. 16, s. 105.

Corresponding Federal Provision: 118.1(5.2).

752.0.10.10.3. *(Repealed).*

History: 2003, c. 2, s. 219; 2005, c. 38, s. 143; 2009, c. 15, s. 139; 2012, c. 8, s. 115; 2017, c. 29, s. 143.

752.0.10.10.4. *(Repealed).*

History: 2003, c. 2, s. 219; 2009, c. 15, s. 140; 2010, c. 5, s. 60; 2017, c. 29, s. 143.

752.0.10.10.5. *(Repealed).*

History: 2003, c. 2, s. 219; 2005, c. 38, s. 144; 2009, c. 15, s. 141; 2012, c. 8, s. 116; 2017, c. 29, s. 143.

Gift made by a partnership.

752.0.10.11. For the purposes of this chapter, where an individual is, at the end of a fiscal period of a partnership, a member of the partnership, the eligible amount of a gift made in the name of the partnership is deemed to be the eligible amount of a gift made by the individual in the individual's taxation year in which the fiscal period of the partnership ends, up to the proportion of his share in that partnership.

Interposed partnership.

For the purposes of the first paragraph, the following rules apply to an individual if one or more partnerships (each of which is in this paragraph referred to as an "interposed partnership") are interposed between the individual and a given partnership, for a given fiscal period of the given partnership:

(a) the individual is deemed to be a member of a particular partnership at the end of a particular fiscal period of the particular partnership and that particular fiscal period is deemed to end in the individual's taxation year in which ends

the fiscal period of the interposed partnership of which the individual is directly a member, if

i. the particular fiscal period is that which ends in the fiscal period (in this section referred to as the "interposed fiscal period") of the interposed partnership that is a member of the particular partnership at the end of that particular fiscal period, and

ii. the individual is a member, or deemed to be a member under this subparagraph *a*, of the interposed partnership described in subparagraph *i* at the end of the interposed partnership's interposed fiscal period; and

(b) the proportion of the individual's share in the given partnership for the given fiscal period is deemed to be equal to the product obtained by multiplying the proportion of the individual's share in the interposed partnership of which the individual is directly a member for the interposed partnership's interposed fiscal period, by

i. if there is only one interposed partnership, the proportion of the interposed partnership's share in the given partnership for the given fiscal period, or

ii. if there is more than one interposed partnership, the result obtained by multiplying together all proportions each of which is the proportion of an interposed partnership's share in the particular partnership referred to in subparagraph *a* of which the interposed partnership is a member for the particular partnership's particular fiscal period.

Restriction.

The rule set out in the second paragraph does not apply in respect of an individual, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the individual and the given partnership, of one or more other partnerships is part of an operation or transaction or of a series of operations or transactions, one of the purposes of which is to cause the eligible amount of a gift that is attributed to the individual under the first paragraph for a taxation year to be greater than the amount that would have been so attributed to the individual for that taxation year, but for that interposition.

History: 1993, c. 64, s. 67; 1997, c. 3, s. 71; 2009, c. 5, s. 281; 2009, c. 15, s. 142.

Corresponding Federal Provision: 118.1(8).

Gift of a work of art to certain donees.

752.0.10.11.1. For the purposes of this chapter, if at any time an individual makes a gift of a work of art described in the second paragraph to a donee referred to in any of paragraphs *b* to *e* and *g* to *j* of the definition of "qualified donee" in section 999.2 or in any of subparagraphs *i*, *iv* and *v* of paragraph *a* of the definition of "qualified donee" in subsection 1 of section 149.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and

whose registration as a qualified donee has not been revoked by the Minister of National Revenue, other than such a donee who acquires the work of art in connection with its primary mission, the individual is deemed, in respect of that work of art, not to have made a gift unless the donee disposes of the work of art on or before 31 December of the fifth year following the year that includes that time.

Work of art.

The work of art to which the first paragraph refers is a print, an etching, a drawing, a painting, a sculpture or any work of a similar nature, a tapestry or hand-woven carpet or hand-made appliqué, a lithograph, a rare folio, a rare manuscript or a rare book, a stamp or a coin.

Exception.

This section does not apply if an individual makes a gift of a work of art referred to in section 752.0.10.15.2 to a donee referred to in subparagraph *c* of the second paragraph of that section.

History: 1995, c. 63, s. 57; 2004, c. 21, s. 195; 2005, c. 23, s. 98; 2006, c. 36, s. 70; 2012, c. 8, s. 117; 2013, c. 10, s. 52; 2015, c. 21, s. 290.

Gift of works of art to certain donees.

752.0.10.11.2. If, at any given time, an individual makes a gift of a work of art referred to in section 752.0.10.11.1 to a donee referred to in that section, the lesser of the amount that may reasonably be considered as the consideration for the disposition by the donee of the work of art and its fair market value at the time of the disposition, is deemed, for the purposes of the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1, to be the fair market value for the purpose of computing the eligible amount of the gift at the given time, for the purposes of section 752.0.10.12, to be the fair market value of the capital property at the given time and, for the purposes of section 752.0.10.13, to be the fair market value of the work of art at the given time.

History: 1995, c. 63, s. 57; 2005, c. 23, s. 99; 2009, c. 5, s. 282.

Gift of capital property or of immovable property.

752.0.10.12. The rule set out in the second paragraph applies if, at any time, an individual makes a gift of a capital property to a qualified donee or, if the individual is not resident in Canada, a gift of an immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that the property will be held for use in the public interest, the individual or the individual’s legal representative designates, after 19 December 2006 and in accordance with subsection 6 of section 118.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an amount in respect of the gift, and, at that time, the fair market value of the capital property or immovable property exceeds

(a) in the case of a depreciable property of a prescribed class, the lesser of the undepreciated capital cost of that class at the end of the taxation year of the individual that includes that time, determined without reference to the proceeds of disposition determined in respect of the property under the second paragraph, and the adjusted cost base to the individual of the property immediately before that time; and

(b) in any other case, the adjusted cost base to the individual of the capital property or immovable property immediately before that time.

Rule applicable.

The lesser of the fair market value of the capital property or immovable property otherwise determined and the greatest of the following amounts, is deemed to be both the individual’s proceeds of disposition of the capital property or immovable property and, for the purposes of section 7.21, the fair market value of the gift:

(a) in the case of a gift made after 20 December 2002, the amount of the advantage in respect of the gift;

(b) the amount determined under subparagraph *a* or *b* of the first paragraph in respect of the capital property or immovable property; and

(c) the amount designated in respect of the gift in accordance with subsection 6 of section 118.1 of the Income Tax Act.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under subsection 6 of section 118.1 of the Income Tax Act or in relation to a designation made under this section before 20 December 2006.

History: 1993, c. 64, s. 67; 1994, c. 22, s. 261; 1995, c. 1, s. 78; 1995, c. 49, s. 236; 2003, c. 2, s. 220; 2005, c. 23, s. 100; 2009, c. 5, s. 283; 2012, c. 8, s. 118.

Corresponding Federal Provision: 118.1(5.4) and (6).

Gift of a work of art.

752.0.10.13. The rules set out in section 752.0.10.14 apply in respect of a gift made by an individual of a work of art that meets any of the following conditions if the gift is described in the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1 or if the work of art is a cultural property described in section 232:

(a) the work of art was created by the individual and is in the individual’s inventory;

(b) the work of art was acquired by the individual under circumstances where section 430 applied; or

(c) if the individual is a succession that arose on and as a consequence of the death of another individual who created

the work of art, the work of art was in the other individual's inventory immediately before the death.

History: 1993, c. 64, s. 67; 1995, c. 49, s. 236; 2003, c. 2, s. 221; 2009, c. 5, s. 284; 2017, c. 29, s. 144.

Corresponding Federal Provision: 118.1(7).

Gift of a work of art.

752.0.10.14. The rules to which section 752.0.10.13 refers, in respect of a gift of a work of art made by an individual, are as follows:

(a) in the case of a gift of a work of art that is a cultural property described in section 232,

i. if at the time the gift is made the fair market value of the work of art that is the subject of the gift exceeds its cost amount to the individual, the individual is deemed to receive at that time proceeds of disposition in respect of the work of art equal to the greater of its cost amount to the individual at that time and the amount of the advantage, if any, in respect of the gift, and

ii. if the individual is the succession that is the graduated rate estate of a particular individual who created the work of art that is the subject of the gift and at the time immediately before the particular individual's death the fair market value of the work of art exceeds its cost amount to the particular individual, the particular individual is deemed to receive at that time proceeds of disposition in respect of the work of art equal to its cost amount to the particular individual at that time and the succession is deemed to have acquired the work of art at a cost equal to those proceeds of disposition; and

(b) in the case of a gift of a work of art that is property described in the definition of "total charitable gifts" in the first paragraph of section 752.0.10.1,

i. if at the time the gift is made the fair market value of the work of art that is the subject of the gift exceeds its cost amount to the individual and an amount is designated, in respect of the gift, in accordance with subparagraph i of paragraph b of subsection 7.1 of section 118.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the lesser of the fair market value of the work of art otherwise determined and the greater of the amount of the advantage in respect of the gift, the cost amount to the individual of the work of art and the amount designated in respect of the gift in accordance with that subsection 7.1 is deemed to be the individual's proceeds of disposition of the work of art and, for the purposes of section 7.21, the fair market value of the work of art, and

ii. if the individual is the succession that is the graduated rate estate of a particular individual who created the work of art that is the subject of the gift, at the time immediately before the particular individual's death the fair market value of the work of art exceeds its cost amount to the particular individual, and an amount is designated, in accordance with

subsection 7.1 of section 118.1 of the Income Tax Act, in respect of the gift, the lesser of the fair market value of the work of art otherwise determined and the greater of the cost amount to the particular individual of the work of art and the amount designated in respect of the gift in accordance with that subsection 7.1 is deemed to be the value of the work of art at the time of the death and the cost to the succession of the work of art.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under subsection 7.1 of section 118.1 of the Income Tax Act.

History: 1993, c. 64, s. 67; 2003, c. 2, s. 221; 2009, c. 5, s. 285; 2017, c. 29, s. 144.

Corresponding Federal Provision: 118.1(7.1).

Amended fiscal return.

752.0.10.15. Where an individual makes a gift of a work of art referred to in section 752.0.10.11.1 in a taxation year, referred to in this section as the "gift year", to a donee referred to in section 752.0.10.11.1, the individual may, on or before his filing-due date for a subsequent taxation year, referred to in this section as the "year of disposition", in which the donee disposed of the work of art, file with the Minister for a taxation year referred to in the second paragraph an amended fiscal return in which he shall take into account the tax consequences of that disposition in respect of an amount relating to that taxation year.

Taxation year.

The taxation year to which the first paragraph refers is a taxation year of the individual for which he filed a fiscal return pursuant to section 1000 and that is previous to the year of disposition but after the fourth taxation year of the individual that precedes the gift year.

Assessment.

Notwithstanding sections 1010 to 1011, the Minister shall, where the individual has filed an amended fiscal return in accordance with the first paragraph, make such assessment, reassessment or additional assessment of the tax, interest and penalties payable by the individual under this Part as is necessary for any taxation year to give effect to the disposition referred to in the first paragraph.

Year before 1998.

For the purposes of the third paragraph, where the taxation year referred to therein is before the taxation year 1998, that paragraph shall be read with the words "and Part I.1" inserted after the words "this Part".

History: 1995, c. 63, s. 58; 1997, c. 31, s. 79; 1997, c. 85, s. 129.

Increase in the eligible amount of a gift of a work of art or of an immovable for cultural purposes.

752.0.10.15.1. For the purposes of the definition of “total charitable gifts” of an individual for a taxation year and of “total cultural gifts” of an individual for a taxation year in the first paragraph of section 752.0.10.1, the eligible amount of a gift described in the second paragraph is to be increased by 1/4 of that amount.

Gift referred to.

The gift to which the first paragraph refers is

- (a) a gift of a work of art to a Québec museum; or
- (b) any of the following gifts if the fair market value of the property that is the subject of the gift is determined under any of sections 752.0.10.4, 752.0.10.4.0.1 and 752.0.10.4.0.1.1:
 - i. unless it is described in subparagraph *a*, a gift of a work of public art that meets the following conditions:
 - (1) it is made to the State, except an educational institution that is a mandatory of the State, or
 - (2) a certificate has been issued by the Minister of Culture and Communications in respect of the work for the purposes of this section,
 - ii. a gift of an eligible immovable if a qualification certificate has been issued by the Minister of Culture and Communications in respect of the building for the purposes of this section, or
 - iii. a gift of an eligible immovable to any of the following entities that acquires the building with a view to carrying on all or part of its activities in it:
 - (1) a registered charity operating in Québec in the field of arts or culture,
 - (2) a registered cultural or communications organization, or
 - (3) a registered museum.

Eligible immovable.

For the purposes of subparagraphs ii and iii of subparagraph *b* of the second paragraph, an eligible immovable means a building situated in Québec, including the land subjacent to it and such portion of any contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the building.

History: 2001, c. 51, s. 53; 2005, c. 23, s. 101; 2009, c. 5, s. 286; 2015, c. 21, s. 291.

Increase in the eligible amount of a gift of a work of public art.

752.0.10.15.2. For the purposes of the definition of “total charitable gifts” of an individual for a taxation year and of “total cultural gifts” of an individual for a taxation year in the first paragraph of section 752.0.10.1, the eligible amount of a gift of a work of public art described in the second paragraph is to be increased by 1/2 of that amount if the fair market value of the work is determined under any of sections 752.0.10.4, 752.0.10.4.0.1 and 752.0.10.4.0.1.1.

Gift referred to.

The gift to which the first paragraph refers is the gift of a work of public art in respect of which a certificate has been issued by the Minister of Culture and Communications for the purposes of this section and that is made to

- (a) an educational institution that is a mandatory of the State;
- (b) a school service centre governed by the Education Act (chapter I-13.3) or a school board governed by the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14); or
- (c) a registered charity whose mission is teaching and that is
 - i. an educational institution established under an Act of the Parliament of Québec, other than an institution described in subparagraph *a*,
 - ii. a college governed by the General and Vocational Colleges Act (chapter C-29),
 - iii. a private educational institution accredited for subsidies purposes under the Act respecting private education (chapter E-9.1), or
 - iv. a university-level educational institution referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).

History: 2015, c. 21, s. 292; 2020, c. 1, s. 283.

Filing of certificates and qualification certificates.

752.0.10.15.3. No individual is entitled to an increase of the eligible amount of a gift for a taxation year, in relation to a gift described in subparagraph *b* of the second paragraph of section 752.0.10.15.1 or in section 752.0.10.15.2, unless the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, the following documents issued by the Minister of Culture and Communications:

- (a) in relation to a gift of a work of public art,
 - i. in respect of which subparagraph 1 of subparagraph i of subparagraph *b* of the second paragraph of section

752.0.10.15.1 applies, a copy of any certificate relating to the fair market value of the work, or

ii. in respect of which subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph of section 752.0.10.15.1 or section 752.0.10.15.2 applies, a copy of the certificate relating to the work and of any certificate relating to the fair market value of the work; or

(b) in relation to the gift of an eligible immovable,

i. in respect of which subparagraph ii of subparagraph *b* of the second paragraph of section 752.0.10.15.1 applies, a copy of the qualification certificate relating to the building and of any certificate relating to the fair market value of the immovable, or

ii. in respect of which subparagraph iii of subparagraph *b* of the second paragraph of section 752.0.10.15.1 applies, a copy of any certificate relating to the fair market value of the immovable.

History: 2015, c. 21, s. 292.

Register of pledges.

752.0.10.15.4. For the purposes of this chapter, the Minister of Culture and Communications shall create a register in which that Minister records the pledges in respect of which an individual (other than a trust) may deduct an amount in computing tax payable for a taxation year under section 752.0.10.6.2.

Pledges recorded.

The Minister of Culture and Communications shall record in the register, at a donor's request, the pledge made by the donor after 3 July 2013 to an eligible cultural donee and assigns a registration number in respect of that pledge if

(a) the pledge stipulates that the donor undertakes to make a gift to the donee of an eligible amount of at least \$250,000 over a period of no more than 10 years, at the rate of a gift of an eligible amount of at least \$25,000 in each of the years covered by the pledge; and

(b) the donor provides the Minister of Culture and Communications with a document, signed by an individual authorized by the donee to acknowledge receipt of gifts, attesting the eligible amount of the gift that is the subject of the pledge.

Copy to the Minister.

On or before the last day of the month of February of each year, the Minister of Culture and Communications shall send the Minister a document stating which pledges were recorded in the register before the end of the preceding year.

History: 2015, c. 21, s. 292.

Unfulfilled pledges.

752.0.10.15.5. For the purposes of this chapter, if an individual who makes a registered pledge in respect of a donee does not make a gift of money to the donee in a particular taxation year covered by the pledge, or makes a gift of money in the particular year, in satisfaction of the pledge, whose eligible amount is less than \$25,000, the pledge is deemed

(a) to cease to be, from the particular year, a registered pledge if

i. at the end of the preceding taxation year, the aggregate of all amounts each of which is the eligible amount of a gift made, at or before that time, by the individual in satisfaction of the pledge was at least \$250,000, or

ii. the particular year is included in the calendar year in which the individual became a bankrupt; or

(b) never to have been registered if

i. at the end of the preceding taxation year, the aggregate of all amounts each of which is the eligible amount of a gift made, at or before that time, by the individual in satisfaction of the pledge is less than \$250,000, unless the individual dies in the particular year, or

ii. the particular year is the first year covered by the pledge.

History: 2015, c. 21, s. 292.

Eligible amount of a gift of an eligible agricultural or food product.

752.0.10.15.6. For the purposes of the definition of "total charitable gifts" of an individual for a taxation year in the first paragraph of section 752.0.10.1, the eligible amount of the following gifts made to a registered charity that is a prescribed charity is to be increased by 1/2 of that amount:

(a) a gift made by a recognized farm producer of an eligible agricultural product produced by such a producer; or

(b) a gift of an eligible food product made by an individual who is carrying on a food processing business or by an individual who is a member of a partnership that is carrying on such a business.

History: 2015, c. 36, s. 46; 2017, c. 1, s. 195.

Gift of non-qualifying securities.

752.0.10.16. For the purposes of this chapter, where at any particular time an individual makes a gift, including a gift that, but for this section, would be deemed under section 752.0.10.10 to have been made at the particular time, of a non-qualifying security of the individual and the gift is not an excepted gift of the individual, the following rules apply:

(a) except for the purpose of determining the individual's proceeds of disposition of the security pursuant to section 752.0.10.12, the gift is deemed not to have been made;

(b) if the security ceases to be a non-qualifying security of the individual at a subsequent time that is within 60 months after the particular time and the donee has not disposed of the security at or before the subsequent time, the individual is deemed to have made a gift to the donee of property at the subsequent time and the fair market value of the property is deemed to be the lesser of the fair market value of the security at the subsequent time and the fair market value of the security at the particular time that would, but for this section, have been included in the individual's total charitable gifts for a taxation year; and

(c) if the security is disposed of by the donee within 60 months after the particular time and paragraph b does not apply to the security, the individual is deemed to have made a gift to the donee of a property at the time of the disposition and the fair market value of the property is deemed to be the lesser of the fair market value of any consideration (other than a non-qualifying security of any person) received by the donee for the security and the fair market value of the security at the particular time that would, but for this section, have been included in the individual's total charitable gifts for a taxation year;

(d) *(paragraph repealed)*.

History: 1999, c. 83, s. 96; 2009, c. 5, s. 287; 2012, c. 8, s. 119; 2017, c. 1, s. 196; 2017, c. 29, s. 145.

Corresponding Federal Provision: 118.1(13).

Application of section 752.0.10.16.2.

752.0.10.16.1. Section 752.0.10.16.2 applies if, as part of a series of transactions,

(a) an individual makes, at a particular time, a gift of a particular property to a qualified donee;

(b) a particular person holds a non-qualifying security of the individual; and

(c) the qualified donee acquires, directly or indirectly, a non-qualifying security of the individual or of the particular person.

History: 2012, c. 8, s. 120.

Corresponding Federal Provision: 118.1(13.1).

Non-qualifying securities – third-party accommodation.

752.0.10.16.2. If this section applies because of section 752.0.10.16.1, the following rules apply:

(a) for the purposes of this chapter, the fair market value of the particular property is deemed to be reduced by an amount

equal to the fair market value of the non-qualifying security acquired by the qualified donee;

(b) for the purposes of section 752.0.10.16, the following presumptions apply:

i. if the non-qualifying security acquired by the qualified donee is a non-qualifying security of the particular person, it is deemed to be a non-qualifying security of the individual, and

ii. the individual is deemed to have made, at the particular time referred to in section 752.0.10.16.1, a gift of the non-qualifying security acquired by the qualified donee, the fair market value of which may not exceed the amount by which the fair market value of the particular property determined without reference to paragraph a exceeds the fair market value of the particular property determined under paragraph a; and

(c) paragraph b of section 752.0.10.16 does not apply in respect of the gift.

History: 2012, c. 8, s. 120.

Corresponding Federal Provision: 118.1(13.2).

“Non-qualifying securities – anti-avoidance.

752.0.10.16.3. For the purposes of sections 752.0.10.16.1 and 752.0.10.16.2, if, as part of a series of transactions, an individual makes a gift to a qualified donee and the qualified donee acquires a non-qualifying security of a person (other than the individual or the particular person referred to in section 752.0.10.16.1) and it may reasonably be considered, having regard to all the circumstances, that one of the purposes or results of the acquisition of the non-qualifying security by the qualified donee was to facilitate, directly or indirectly, the making of the gift by the individual, the non-qualifying security acquired by the qualified donee is deemed to be a non-qualifying security of the individual.

History: 2012, c. 8, s. 120.

Corresponding Federal Provision: 118.1(13.3).

Exchanged security.

752.0.10.17. Where a share, in this section referred to as the "new share", that is a non-qualifying security of an individual has been acquired by a donee referred to in section 752.0.10.16 in exchange for another share, in this section referred to as the "exchanged share", that is a non-qualifying security of the individual as a result of a transaction to which any of sections 301, 301.1, 537 and 541 to 555.4 applies, the new share is deemed for the purposes of section 752.0.10.16 and this section to be the same share as the exchanged share.

History: 1999, c. 83, s. 96.

Corresponding Federal Provision: 118.1(14).

Exchange of beneficial interest in a trust.

752.0.10.17.1. For the purposes of section 752.0.10.16, if a donee disposes of a beneficial interest in a trust that is a non-qualifying security of an individual in circumstances where paragraph *c* of section 752.0.10.16 would, but for this section, apply in respect of the disposition, and in respect of which the donee receives no consideration other than other non-qualifying securities of the individual, the gift referred to in section 752.0.10.16 is deemed to be a gift of those other non-qualifying securities.

History: 2009, c. 15, s. 143.

Corresponding Federal Provision: 118.1(14.1).

Fair market value of a gift.

752.0.10.18. For the purposes of this chapter, the fair market value of a gift of property made at any particular time by an individual is deemed to be equal to the fair market value of the gift of property otherwise determined minus the amount described in the second paragraph, where

(a) if the property is a non-qualifying security of the individual, the gift is an excepted gift; and

(b) within 60 months after the particular time,

i. the donee holds a non-qualifying security of the individual that was acquired by the donee on the latest of 1 August 1997 and any time that is after 60 months before the particular time, or

ii. both

(1) the individual or any person or partnership with whom or with which the individual does not deal at arm's length uses property of the donee under an agreement that was made or modified after the time that is 60 months before the particular time and has begun to so use it after 31 July 1997, and

(2) the property was not used in the carrying on of the donee's charitable activities.

Interpretation.

The amount to which the first paragraph refers is the aggregate of all amounts each of which is the fair market value of the consideration given by the donee to acquire a non-qualifying security referred to in subparagraph *i* of subparagraph *b* of the first paragraph or the fair market value of property referred to in subparagraph *ii* of that subparagraph *b*, as the case may be.

Fair market value of the consideration.

Where the first paragraph applies for the purpose of determining the fair market value of a gift made at any particular time by an individual, the fair market value, referred to in the second paragraph, of consideration given to acquire a non-qualifying security referred to in

subparagraph *i* of subparagraph *b* of the first paragraph or of property referred to in subparagraph *ii* of that subparagraph *b* is deemed to be equal to the fair market value of the consideration otherwise determined minus any portion of it that has been used under the first paragraph to reduce the fair market value of another gift made before that time by the individual.

History: 1999, c. 83, s. 96; 2009, c. 15, s. 144.

Corresponding Federal Provision: 118.1(16) and (17).

Gift of options.

752.0.10.19. Subject to sections 752.0.10.21 and 752.0.10.22, if an individual has granted an option to a qualified donee in a taxation year, no amount in respect of the option is to be included in computing the total charitable gifts, total cultural gifts, total gifts of qualified property or total musical instrument gifts of an individual for a taxation year.

History: 2012, c. 8, s. 121; 2017, c. 1, s. 197; 2017, c. 29, s. 146.

Corresponding Federal Provision: 118.1(21).

Application of section 752.0.10.21.

752.0.10.20. Section 752.0.10.21 applies if

(a) an option to acquire a property of an individual is granted to a qualified donee;

(b) the option is exercised so that the property is disposed of by the individual and acquired by the qualified donee at a particular time; and

(c) either

i. the amount that is 80% of the fair market value of the property at the particular time is greater than or equal to the aggregate of

(1) the consideration received by the individual from the qualified donee for the property, and

(2) the consideration received by the individual from the qualified donee for the option, or

ii. the individual establishes to the satisfaction of the Minister that the granting of the option or the disposition of the property was made by the individual with the intention to make a gift to the qualified donee.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(22).

Granting of an option.

752.0.10.21. If this section applies because of section 752.0.10.20, the following rules apply despite paragraph *a* of section 296:

(a) the individual is deemed to have received proceeds of disposition of the property equal to the property's fair market value at the particular time referred to in paragraph *b* of section 752.0.10.20; and

(b) there shall be included in the individual's total charitable gifts, for the taxation year that includes the particular time, the amount by which the property's fair market value exceeds the aggregate of the amounts described in subparagraphs 1 and 2 of subparagraph *i* of paragraph *c* of section 752.0.10.20.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(23).

Disposition of an option.

752.0.10.22. If an option to acquire a particular property of an individual is granted to a qualified donee and the option is disposed of by the qualified donee (otherwise than by the exercise of the option) at a particular time, the following rules apply:

(a) the individual is deemed to dispose of a property at the particular time

i. the adjusted cost base of which to the individual immediately before the particular time is equal to the consideration paid by the qualified donee for the option, and

ii. the proceeds of disposition of which are equal to the lesser of the fair market value of the particular property at the particular time and the fair market value of any consideration (other than a non-qualifying security of a person) received by the qualified donee for the option; and

(b) there shall be included in the total charitable gifts of the individual for the individual's taxation year that includes the particular time the amount by which the proceeds of disposition as determined by subparagraph *ii* of paragraph *a* exceed the consideration paid by the qualified donee for the option.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(24).

Application of section 752.0.10.24.

752.0.10.23. Section 752.0.10.24 applies if a qualified donee has issued to an individual a receipt referred to in section 752.0.10.3 in respect of a transfer of a property (in this section and section 752.0.10.24 referred to as the "original property") and a property (in this section and sections 752.0.10.24 to 752.0.10.26 referred to as the "particular property") that is

(a) the original property is later transferred to the individual (unless that later transfer is reasonable consideration or remuneration for property acquired by or services rendered to a person); or

(b) any other property that may reasonably be considered compensation for or a substitute for, in whole or in part, the original property, is later transferred to the individual.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(25).

Returned property.

752.0.10.24. If this section applies because of section 752.0.10.23, the following rules apply:

(a) irrespective of whether the transfer of the original property by the individual is a gift, the individual is deemed not to have disposed of the original property at the time of that transfer nor to have made a gift;

(b) if the particular property is identical to the original property, the particular property is deemed to be the original property; and

(c) if the particular property is not the original property,

i. the individual is deemed to have disposed of the original property at the time that the particular property is transferred to the individual for proceeds of disposition equal to the greater of the fair market value of the particular property at that time and the fair market value of the original property at the time that it was transferred by the individual to the qualified donee, and

ii. if, but for paragraph *a*, the transfer of the original property by the individual would be a gift, the individual is deemed to have, at the time of that transfer, transferred to the qualified donee a property that is the subject of a gift having a fair market value equal to the amount by which the fair market value of the original property at the time of that transfer exceeds the fair market value of the particular property at the time that it is transferred to the individual.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(26).

Information return.

752.0.10.25. If section 752.0.10.24 applies in respect of a transfer of a particular property to an individual and that particular property has a fair market value greater than \$50, the transferor must, in respect of that transfer, file a return containing prescribed information with the Minister not later than 90 days after the day on which the particular property was transferred and provide a copy of the return to the individual.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(27).

Reassessment.

752.0.10.26. If section 752.0.10.24 applies in respect of a transfer of a particular property to an individual, the Minister may, despite sections 1010 to 1011, make any

assessment, reassessment or additional assessment of tax, interest or penalties payable under this Part by a person for any taxation year to the extent that the assessment, reassessment or additional assessment can reasonably be regarded as relating to the transfer of the particular property.

History: 2012, c. 8, s. 121.

Corresponding Federal Provision: 118.1(28).

CHAPTER I.0.3

TAX CREDITS FOR MEDICAL EXPENSES OR CARE AND FOR SEVERE AND PROLONGED IMPAIRMENTS IN MENTAL OR PHYSICAL FUNCTIONS

Tax credit for medical expenses.

752.0.11. An individual may deduct from his tax otherwise payable for a taxation year under this Part an amount determined by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is a rate of 20%;

(b) B is the aggregate of the medical expenses described in section 752.0.11.1 that

i. are proven by a receipt filed with the Minister,

ii. have not already been included by the individual or any other person in computing a determined amount, for the purposes of this section or section 358.0.1 or 1029.8.118, in respect of a preceding taxation year,

iii. are not included by any other person in computing a determined amount, for the purposes of section 358.0.1, in respect of any taxation year, and

iv. were paid by either the individual or the individual's legal representative, or by a person who is the individual's spouse during the year or on the date on which the medical expenses were paid,

(1) within any period of 12 months ending in the year, or

(2) if the medical expenses were paid in respect of a person, including the individual, who died in the year, within any period of 24 months that includes the day of the person's death; and

(c) C is 3% of the aggregate of the individual's income for the year and the income, for the year, of the person who is the individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

(d) *(subparagraph repealed)*.

History: 1989, c. 5, s. 104; 1990, c. 59, s. 288; 1993, c. 64, s. 69; 1997, c. 14, s. 113; 1997, c. 85, s. 130; 2000, c. 5, s. 163; 2001, c. 51, s. 54; 2003, c. 9, s. 83; 2004, c. 21, s. 196; 2005, c. 38, s. 145; 2017, c. 29, s. 147.

Corresponding Federal Provision: 118.2(1).

752.0.11.0.1. *(Repealed)*.

History: 1997, c. 85, s. 131; 2003, c. 9, s. 84.

Medical expenses.

752.0.11.1. Subject to section 752.0.11.1.3, the medical expenses to which subparagraph *b* of the second paragraph of section 752.0.11 refers are amounts paid

(a) to a dentist, nurse or practitioner or a public or licensed private hospital in respect of medical, paramedical or dental services provided to a person;

(b) to a person authorized under the laws of a province to practise the profession of a dental prosthetist, for the making, repairing and fitting of dental prostheses, for a person;

(c) for drugs, medicaments or other preparations or substances (other than those listed in paragraph *d*)

i. for use in the diagnosis, treatment or prevention of a disease, disorder or abnormal physical state, or its symptoms, or in restoring, correcting or modifying an organic function,

ii. that can lawfully be acquired for use by a person only if prescribed by a practitioner or dentist, and

iii. the purchase of which is recorded by a pharmacist;

(c.1) for drugs, medicaments or other preparations or substances that are prescribed by regulation;

(d) for an oxygen tent or other equipment necessary to administer oxygen or for insulin, oxygen, liver extract injectable for pernicious anaemia or vitamin B₁₂ for pernicious anaemia, if used by a person as prescribed by a practitioner;

(d.1) for hyperbaric oxygen therapy sessions provided to a person with a severe and prolonged neurological disorder in respect of whom, because of the person's severe and prolonged impairment in mental or physical functions, subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the taxation year in which the expense was incurred;

(e) for laboratory analyses, radiological examinations or other diagnostic procedures together with interpretations thereof, if such analyses, examinations and other procedures are effected for maintaining health, preventing disease or assisting in the diagnosis or treatment of an injury, illness or

disability, for a person as prescribed by a practitioner or dentist;

(f) for eye glasses or other devices for the treatment or correction of a defect of vision of a person as prescribed by a practitioner or optometrist;

(g) for transportation of a person by ambulance to or from a public or licensed private hospital;

(h) to a person engaged in the business of providing transportation services, for the transportation of a particular person or a particular person and one person who accompanies the particular person, if, in the latter case, the particular person has been certified in writing by a practitioner to be incapable of travelling without assistance from the locality where the particular person dwells to the place where medical or paramedical services are normally provided, if that place is not less than 40 kilometres from that locality, if equivalent or substantially equivalent services were not available in that locality, if the particular person travelled to that place to obtain such services for himself or herself and if, having regard to the circumstances, it was reasonable to travel to that place to obtain those services and the route travelled was the most reasonably direct route;

(i) for reasonable travel expenses, other than expenses described in paragraph *h*, incurred in respect of a particular person or a particular person and one person who accompanies the particular person, if, in the latter case, the particular person has been certified in writing by a practitioner to be incapable of travelling without assistance, to obtain medical or paramedical services in a place that is not less than 80 kilometres from the locality where the particular person dwells, if equivalent or substantially equivalent services were not available in that locality, if the particular person travelled to that place to obtain such services for himself or herself and if, having regard to the circumstances, it was reasonable to travel to that place to obtain those services and the route travelled was the most reasonably direct route;

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

(j.1) for or in respect of diapers, disposable briefs, catheters, catheter trays, tubing or other products required by a person by reason of incontinence caused by illness, injury or affliction;

(k) for the care, or the care and training, at a school, institution or other place, of a particular person, if the particular person has been certified in writing by a qualified person to be a person who, by reason of a physical or mental

handicap, requires the equipment, facilities or personnel specially provided by that school, institution or other place for the care, or the care and training, of persons suffering from such a handicap, other than amounts paid to the operator of a private seniors' residence, within the meaning of the first paragraph of section 1029.8.61.1 if the definition of that expression were read without reference to "for a particular month" and ", at the beginning of the particular month,";

(l) for the full-time care in a nursing home of a person, if the person has been certified in writing by a practitioner to be a person who, by reason of lack of normal mental capacity, is and in the foreseeable future will continue to be dependent on others for the person's personal needs and care;

(m) as remuneration for one full-time attendant on, or for the full-time care in a nursing home of, a person in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the taxation year in which the expense was incurred if, at the time the remuneration is paid, the attendant is neither the individual referred to in section 752.0.11 or that individual's spouse, nor under 18 years of age;

(m.1) as remuneration for attendant care provided in Canada to a person in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the taxation year in which the expense was incurred, to the extent that the total of amounts so paid does not exceed \$10,000, or \$20,000 if the individual referred to in section 752.0.11 dies in the year, where

i. no part of the remuneration is included in computing an amount deducted in respect of the person under section 358.0.1 or any of paragraphs *k*, *l*, *m*, *m.2* and *n* for a taxation year, or taken into consideration in computing an amount deemed to have been paid to the Minister in respect of the person under Division II.13 of Chapter III.1 of Title III of Book IX for any taxation year,

i.1. no part of the remuneration constitutes an expense in respect of which the individual referred to in section 752.0.11, or the person who is the individual's spouse at the time the remuneration is paid, may be deemed to have paid an amount to the Minister on account of the individual's tax payable, for a taxation year, under Division II.11.1 of Chapter III.1 of Title III of Book IX,

ii. at the time the remuneration is paid, the attendant is neither the individual referred to in section 752.0.11 or that individual's spouse, nor under 18 years of age, and

iii. each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(*m.2*) as remuneration for a person's care or supervision provided in a group home in Canada maintained and operated exclusively for the benefit of individuals who have a severe and prolonged impairment, if, because of the person's severe and prolonged impairment, the person is a person in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the taxation year in which the expense was incurred, where

i. no part of the remuneration is included in computing an amount deducted in respect of the person under section 358.0.1 or any of paragraphs *k*, *l*, *m*, *m.1* and *n* for a taxation year, or taken into consideration in computing an amount deemed to have been paid to the Minister in respect of the person under Division II.13 of Chapter III.1 of Title III of Book IX for any taxation year, and

ii. each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(*n*) as remuneration for one full-time attendant on a person in a self-contained domestic establishment in which the person receiving the care lives, if that person is, and has been certified in writing by a practitioner to be, a person who, by reason of mental or physical infirmity, is and is likely to be for a long-continued period of indefinite duration dependent on others for the person's personal needs and care, if, at the time the remuneration is paid, the attendant is neither the person's spouse nor under 18 years of age, and if the receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(*o*) on behalf of a person who is blind or profoundly deaf or has severe autism, severe diabetes, severe epilepsy, a severe mental impairment or a severe and prolonged impairment that markedly restricts the use of the person's arms or legs,

i. for an animal that is specially trained to, in the case of a person who has a severe mental impairment, perform specific tasks (excluding the provision of emotional support) that assist the person in coping with the impairment, and, in all other cases, assist the person in coping with the impairment and that is provided by a person or organization one of whose main purposes is such training of animals,

ii. for the care and maintenance of such an animal, including food and veterinary care,

iii. for reasonable travel expenses of the person incurred for the purpose of attending a school, institution or other facility that trains, in the handling of such animals, individuals who are so impaired, and

iv. for reasonable board and lodging expenses of the person incurred for the purpose of attending full-time courses at a place described in subparagraph iii;

(*o.1*) for reasonable expenses relating to rehabilitative therapy, including training in lip reading and sign language, incurred to adjust for the person's hearing or speech loss;

(*o.2*) on behalf of a person who has a speech or hearing impairment, for sign language interpretation services or real-time captioning services, to the extent that the payment is made to a person engaged in the business of providing such services;

(*o.2.1*) on behalf of a person who has an impairment in mental or physical functions, for note-taking services, if

i. the person has been certified in writing by a practitioner to be a person who, because of that impairment, requires those services, and

ii. the payment is made to a person engaged in the business of providing such services;

(*o.2.2*) on behalf of a person who has an impairment in physical functions, for the cost of voice recognition software, if the person has been certified in writing by a practitioner to be a person who, because of that impairment, requires that software;

(*o.2.3*) on behalf of a person who is blind or has a severe learning disability, for reading services, if

i. the person has been certified in writing by a practitioner to be a person who, because of that impairment or disability, requires those services, and

ii. the payment is made to a person in the business of providing those services;

(*o.2.4*) on behalf of a person who is blind and profoundly deaf, for deaf-blind intervening services, to the extent that the payment is made to a person in the business of providing those services;

(*o.3*) for reasonable moving expenses, described in section 350, of a person who lacks normal physical development or has a severe and prolonged mobility impairment, other than expenses deducted under section 348 for any taxation year, incurred for the purpose of the person's move to a new dwelling that is more accessible by the person or in which the person is more mobile or functional, if the total of the expenses claimed under this paragraph does not exceed \$2,000;

(*o.4*) for reasonable expenses relating to alterations to the driveway of the principal place of residence of a person who has a severe and prolonged mobility impairment, to facilitate the person's access to a bus;

(*o.5*) for a van that, at the time of its acquisition or within six months after that time, has been adapted for the transportation of a person who requires the use of a

wheelchair, to the extent of the lesser of \$5,000 and 20% of the amount by which the amount paid for the acquisition of the van exceeds the portion of that amount that is included because of paragraph *s* in computing an amount deductible by the person under section 752.0.11 for any taxation year;

(*o.6*) for reasonable expenses, other than amounts paid to a person who was at the time of the payment the spouse of the individual referred to in section 752.0.11 or a person under 18 years of age, to train the individual, or a person related to the individual, if the training relates to the impairment in mental or physical functions of a person who is related to the individual and is a member of the individual's household or is dependent on the individual for support;

(*o.7*) as remuneration for therapy provided to a person because of the person's severe and prolonged impairment, if subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the taxation year in which the expense was incurred, where

i. the therapy is prescribed by and administered under the supervision of a physician, a specialized nurse practitioner or a psychologist, in the case of an impairment in mental functions, or a physician, a specialized nurse practitioner or an occupational therapist, in the case of an impairment in physical functions,

ii. at the time the remuneration is paid, the payee is neither the person's spouse nor an individual who is under 18 years of age, and

iii. each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(*o.8*) as remuneration for tutoring services that are rendered to, and are supplementary to the primary education of, a person who has a learning disability or an impairment in mental functions, and has been certified in writing by a practitioner to be a person who, because of that disability or impairment, requires such services, if the payment is made to a person ordinarily engaged in the business of providing such services to individuals who are not related to the payee;

(*o.9*) as remuneration for the design of an individualized therapy plan for a person if, because of the person's severe and prolonged impairment, the person is a person in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the taxation year in which the remuneration is paid, where

i. the plan is required to access public funding for specialized therapy or is prescribed by a physician, a specialized nurse practitioner or a psychologist, in the case of an impairment in mental functions, or a physician, a specialized nurse practitioner or an occupational therapist, in the case of an impairment in physical functions,

ii. the therapy set out in the plan is prescribed by and, if undertaken, administered under the supervision of a physician, a specialized nurse practitioner or a psychologist, in the case of an impairment in mental functions, or a physician, a specialized nurse practitioner or an occupational therapist, in the case of an impairment in physical functions, and

iii. the ordinary business of the payee includes the design of such plans for individuals who are not related to the payee;

(*p*) as a premium or other consideration to a private health services plan in respect of the individual referred to in section 752.0.11, the individual's spouse or any other person living with the individual and with whom the individual is connected by blood relationship, marriage or adoption, or in respect of several of those persons;

(*q*) on behalf of a person who requires a bone marrow or organ transplant,

i. for reasonable expenses, other than expenses described in subparagraph ii but including legal fees and insurance premiums, incurred to locate a compatible donor and to arrange for the transplant, and

ii. for reasonable travel, board and lodging expenses, other than expenses described in paragraphs *h* and *i*, of the person and one other person who accompanies the person, and of the donor and one other person who accompanies the donor, incurred in respect of the transplant;

(*r*) for reasonable expenses relating to renovations or alterations to a dwelling of a person who lacks normal physical development or has a severe and prolonged mobility impairment, to enable the person to gain access to, or to be mobile or functional within, the dwelling, provided that those expenses

i. are not of a type that would typically be expected to increase the value of the dwelling, and

ii. are of a type that would not normally be incurred by a person who has normal physical development or who does not have a severe and prolonged mobility impairment;

(*r.1*) for reasonable expenses, relating to the construction of the principal place of residence of a person who lacks normal physical development or has a severe and prolonged mobility impairment, that can reasonably be considered to be incremental costs incurred to enable the person to gain access to, or to be mobile or functional within, the person's principal place of residence, provided that those expenses

i. are not of a type that would typically be expected to increase the value of the dwelling, and

ii. are of a type that would not normally be incurred by a person who has normal physical development or who does not have a severe and prolonged mobility impairment;

(s) for any device or equipment not otherwise described in this section, if it is used by a person as prescribed by a practitioner, is prescribed by regulation and meets such conditions as may be prescribed as to its use or the reason for its acquisition, but only to the extent that the amounts so paid do not exceed the amount, if any, prescribed in respect of the device or equipment.

(t) on behalf of a person who has celiac disease and who has been certified in writing by a practitioner to be a person who, because of that disease, requires a gluten-free diet, for the incremental cost of acquiring gluten-free food products as compared to the cost of comparable non-gluten-free food products;

(u) for drugs obtained under Health Canada's Special Access Programme in accordance with sections C.08.010 and C.08.011 of the Food and Drug Regulations made under the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27) and purchased for use by a person;

(v) for medical devices obtained under Health Canada's Special Access Programme in accordance with Part 2 of the Medical Devices Regulations made under the Food and Drugs Act and purchased for use by a person; or

(w) on behalf of a person who is authorized to possess marihuana, marihuana plants or seeds, cannabis or cannabis oil for their own medical use under the Access to Cannabis for Medical Purposes Regulations made under the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or section 56 of that Act, for the cost of marihuana, marihuana plants or seeds, cannabis or cannabis oil purchased in accordance with the Access to Cannabis for Medical Purposes Regulations or section 56 of the Controlled Drugs and Substances Act.

History: 1990, c. 59, s. 289; 1991, c. 8, s. 44; 1993, c. 16, s. 281; 1994, c. 22, s. 262; 1995, c. 1, s. 79; 1995, c. 63, s. 59; 1997, c. 14, s. 114; 1997, c. 85, s. 132; 1999, c. 89, s. 53; O.C. 149-2000; 2000, c. 5, s. 164; 2000, c. 39, s. 60; 2001, c. 51, s. 55; 2001, c. 53, s. 115; 2003, c. 2, s. 222; 2004, c. 8, s. 145; 2005, c. 1, s. 161; 2005, c. 38, s. 146; 2006, c. 36, s. 72; 2009, c. 5, s. 288; 2009, c. 15, s. 145; 2013, c. 10, s. 53; 2015, c. 24, s. 102; I.N. 2016-01-01 (NCCP); 2017, c. 29, s. 148; 2019, c. 14, s. 224.

Corresponding Federal Provision: 118.2(2).

752.0.11.1.1. *(Repealed).*

History: 1997, c. 85, s. 133; 2000, c. 39, s. 61.

752.0.11.1.2. *(Repealed).*

History: 1997, c. 85, s. 133; 2000, c. 39, s. 61.

Medical expenses not included.

752.0.11.1.3. The medical expenses referred to in section 752.0.11.1 do not include

(a) the expenses related to an in vitro fertilization treatment, if such expenses are

i. expenses taken into account in computing the amount that a person is deemed to have paid to the Minister under Division II.12.1 of Chapter III.1 of Title III of Book IX for the taxation year in which the expenses were paid,

ii. paid in respect of an in vitro fertilization activity carried out in Québec in a centre for assisted procreation that does not hold a licence issued in accordance with the Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01), or

iii. paid in respect of an in vitro fertilization treatment during which an in vitro fertilization activity is carried out that does not meet a condition of paragraphs *a* and *b* of the definition of "eligible in vitro fertilization treatment" in the first paragraph of section 1029.8.66.1;

(b) the expenses paid for medical, paramedical or dental services provided for purely cosmetic purposes; and

(c) the transportation, travel or lodging expenses paid for medical, paramedical or dental services provided for purely cosmetic purposes.

History: 2001, c. 51, s. 56; 2005, c. 38, s. 147; 2011, c. 6, s. 156; 2017, c. 1, s. 198.

Deemed medical expenses.

752.0.11.1.4. For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, the amounts that are paid for the conception of a child by an individual, the individual's spouse or a person who is a dependant of the individual and is referred to in section 752.0.12 and that would be medical expenses described in section 752.0.11.1 if the individual, the individual's spouse or the person who is a dependant of the individual, as the case may be, were incapable of conceiving a child because of a medical condition are deemed, subject to section 752.0.11.1.3, to be medical expenses described in section 752.0.11.1.

History: 2019, c. 14, s. 225.

Corresponding Federal Provision: 118.2(2.2).

Deemed payment of medical expenses.

752.0.11.2. Where a person engaged in the business of providing transportation services is not readily available and an individual makes use of a vehicle for the purposes described in paragraph *h* of section 752.0.11.1, a reasonable amount in respect of the operation of the vehicle is deemed, for the purposes of the said paragraph and subparagraph *b* of

the second paragraph of section 752.0.11, to have been paid to such person by the individual or his legal representatives.

History: 1990, c. 59, s. 289.

Corresponding Federal Provision: 118.2(4).

Special rules.

752.0.11.3. For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, the following rules apply:

(a) any amount included in computing the income of an individual or of the individual's spouse for a taxation year from an office or employment in respect of a medical expense described in section 752.0.11.1 and paid or provided by an employer at a particular time for the benefit of the individual, the individual's spouse or a person referred to in section 752.0.12 who is a dependant of the individual is deemed to be a medical expense paid at that time by the individual or the individual's spouse, as the case may be;

(b) an amount to be paid for the year by an individual under subdivision 2 of Division I.1 of Chapter IV of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) is deemed to be paid on 31 December of the year for which that amount is required to be paid.

History: 1990, c. 59, s. 289; 1997, c. 14, s. 115; 2001, c. 51, s. 57.

Corresponding Federal Provision: 118.2(3)(a).

Cost of eyeglass frames.

752.0.11.4. For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, the aggregate of all amounts each of which is an amount that an individual includes in computing the aggregate described in that subparagraph *b* for a taxation year, that is attributable to the cost of eyeglass frames acquired in the period referred to in subparagraph *i* or *ii* of that subparagraph *b*, determined in respect of that year, and that is paid for the benefit of a particular person who is the individual, the individual's spouse or a dependant of the individual referred to in section 752.0.12, may not exceed \$200.

History: 2005, c. 38, s. 148.

Condition.

752.0.12. The expenses referred to in subparagraph *b* of the second paragraph of section 752.0.11, except where that subparagraph *b* refers to the expenses described in paragraph *o.6* of section 752.0.11.1, must have been paid for the benefit of the individual, the individual's spouse or any other person who, in the taxation year in which the expenses were incurred, is a dependant of the individual.

History: 1989, c. 5, s. 104; 1993, c. 64, s. 70; 2001, c. 53, s. 116; 2005, c. 1, s. 162; 2019, c. 14, s. 226.

Excluded expenses.

752.0.12.1. For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, the expenses or the expenditure, as the case may be, taken into account in determining an amount that an individual or the individual's spouse is deemed to have paid to the Minister under section 1029.8.61.5 or 1029.8.63 for a preceding taxation year or has deducted under section 118.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the tax payable under that Act by the individual for a preceding taxation year in respect of which the individual was not liable to pay tax under this Part shall not be included as medical expenses of the individual for a taxation year.

History: 1995, c. 1, s. 80; 1997, c. 14, s. 116; 2000, c. 39, s. 62.

Excluded expenses.

752.0.13. For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, there shall not be included as a medical expense of an individual any expense to the extent that the individual, the individual's spouse, a particular person referred to in section 752.0.12 who is a dependant of the individual, any person related to the individual, the individual's spouse or that particular person, or the legal representative of any of them is entitled to be reimbursed for the expense, except to the extent that the amount of the reimbursement is required to be included in computing income and is not deductible in computing taxable income.

History: 1989, c. 5, s. 104; 1994, c. 22, s. 263; 2000, c. 5, s. 165.

Corresponding Federal Provision: 118.2(3)(b).

More than one individual.

752.0.13.0.1. Where, for a taxation year, an individual would, but for this section, be entitled to include, in computing the amount determined in respect of the individual for the year under subparagraph *b* of the second paragraph of section 752.0.11, medical expenses that are the same as those that would, but for this section, be included in computing the amount determined in respect of one or more other individuals for the year under that subparagraph *b*, the aggregate of the amounts that may be so included by the individuals in respect of those medical expenses shall not exceed the amount that, if only one individual were entitled to include those medical expenses in computing the amount determined in his respect for the year under that subparagraph, would be so included by the individual in respect of those medical expenses.

Determination by the Minister.

Where the individuals cannot agree as to what portion of the amount of medical expenses each would, but for this section, be entitled to include in computing the amount determined in his respect for the year under subparagraph *b* of the second

paragraph of section 752.0.11, the Minister may determine that portion of the amount for the year.

History: 1997, c. 14, s. 117.

Tax credit for medical care.

752.0.13.1. An individual may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying 20% by the amount of the reasonable travel and lodging expenses paid in the year by either the individual or the individual's legal representatives, in respect of a particular person referred to in section 752.0.13.2, so that the particular person may obtain in Québec medical care not available in Québec within 200 kilometres of the locality where the particular person lives, or in respect of such a particular person and the person accompanying the particular person so that the latter may obtain such medical care where, in the latter case, the particular person is under 18 years of age in the year or is unable to travel unassisted if, in either case, the individual files with the Minister the prescribed form whereon a physician certifies that care equivalent or virtually equivalent to that obtained is not available in Québec within 200 kilometres of the locality where the particular person lives and, where such is the case, that the particular person is unable to travel unassisted.

Travel and lodging expenses not included.

The travel and lodging expenses referred to in the first paragraph do not include

(a) the expenses related to an in vitro fertilization treatment, if such expenses are

i. expenses taken into account in computing the amount that a person is deemed to have paid to the Minister under Division II.12.1 of Chapter III.1 of Title III of Book IX for the taxation year in which the expenses were paid,

ii. paid in respect of an in vitro fertilization activity carried out in Québec in a centre for assisted procreation that does not hold a licence issued in accordance with the Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01), or

iii. paid in respect of an in vitro fertilization treatment during which an in vitro fertilization activity is carried out that does not meet a condition of paragraphs *a* and *b* of the definition of "eligible in vitro fertilization treatment" in the first paragraph of section 1029.8.66.1; and

(b) the transportation, travel or lodging expenses paid for medical, paramedical or dental services provided for purely cosmetic purposes.

History: 1990, c. 7, s. 61; 1997, c. 85, s. 330; 2001, c. 51, s. 58; 2005, c. 38, s. 149; 2011, c. 6, s. 157; 2017, c. 1, s. 199; 2017, c. 29, s. 149.

Tax credit for moving expenses related to medical care.

752.0.13.1.1. An individual who moves from a former residence situated in Québec at which the individual ordinarily lived to a new residence, at which the individual ordinarily lives, situated in Québec not more than 80 kilometres from a health establishment situated in Québec so that a particular person referred to in section 752.0.13.2 may obtain, at that establishment, medical care not available in Québec within 200 kilometres of the locality in which the former residence of the individual is situated, may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying 20% by the amount of the moving expenses referred to in the second paragraph paid in the year by the individual or the individual's legal representatives in respect of the move, if the individual files with the Minister the prescribed form whereon a physician certifies that the medical care may reasonably be expected to last at least six months and whereon that physician and the director general, or the director general's delegate in that respect, of a health establishment that is in the area in which the former residence of the individual is situated certify that care equivalent or virtually equivalent to that obtained is not available in Québec within 200 kilometres of the locality where the former residence of the individual is situated.

Interpretation.

The moving expenses referred to in the first paragraph are those described in section 350 in respect of which the individual has not deducted an amount under section 752.0.13.1 in computing his tax payable for a taxation year.

History: 1993, c. 19, s. 53; 1997, c. 85, s. 330; 2001, c. 51, s. 59; 2017, c. 29, s. 150.

Person entitled to deduction.

752.0.13.2. The particular person to whom sections 752.0.13.1 and 752.0.13.1.1 refer is the individual, the individual's spouse or any person dependent on the individual during the taxation year in which the expenses were incurred.

History: 1990, c. 7, s. 61; 1993, c. 19, s. 54; 2005, c. 1, s. 163.

Travel and lodging expenses.

752.0.13.3. For the purposes of sections 752.0.13.1 and 752.0.13.1.1,

(a) any amount included in computing an individual's income for a taxation year from an office or employment in respect of travel and lodging expenses referred to in section 752.0.13.1 or moving expenses referred to in section 752.0.13.1.1, and paid or furnished by an employer at any particular time, is deemed to constitute travel and lodging expenses or moving expenses, as the case may be, paid at that particular time by the individual;

(b) the expenses in respect of which the individual has deducted, for a taxation year, an amount under any other provision of this Part and the expenses for which the individual or his legal representatives have received a reimbursement or are entitled thereto are not considered travel and lodging expenses or moving expenses paid by the individual in a year except, in the latter case, to the extent that the amount of the expenses is required to be included in computing the individual's income under this Part.

History: 1990, c. 7, s. 61; 1993, c. 19, s. 54.

752.0.13.4. (Repealed).

History: 1993, c. 64, s. 71; 1997, c. 85, s. 330; 1999, c. 89, s. 53; O.C. 149-2000; 2001, c. 51, s. 60; 2005, c. 1, s. 164.

752.0.13.5. (Repealed).

History: 1993, c. 64, s. 71; 1996, c. 39, s. 273; 2005, c. 1, s. 164.

Tax credit for physical or mental impairment.

752.0.14. An individual may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying the percentage specified in section 750.1 for the year by the amount of \$3,307 if

(a) the individual has a severe and prolonged impairment in mental or physical functions the effects of which are such that

i. the individual's ability to perform a basic activity of daily living is markedly restricted, or

ii. the individual's ability to perform more than one basic activity of daily living is significantly restricted if the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living;

(b) in the case where subparagraph i of subparagraph a applies, a physician or a specialized nurse practitioner, or, where the individual has a sight impairment, a physician, a specialized nurse practitioner or an optometrist, or, where the individual has a speech impairment, a physician, a specialized nurse practitioner or a speech-language pathologist, or, where the individual has a hearing impairment, a physician, a specialized nurse practitioner or an audiologist, or, where the individual has an impairment with respect to the individual's ability in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, or, where the individual has an impairment with respect to the individual's ability in walking, a physician, a specialized nurse practitioner, an occupational therapist or a physiotherapist, or, where the individual has an impairment with respect to the individual's ability in mental functions necessary for everyday life, a physician, a specialized nurse practitioner or a psychologist, has certified in prescribed form that the

individual has an impairment referred to in subparagraph i of subparagraph a;

(b.1) in the case where subparagraph ii of subparagraph a applies, a physician or a specialized nurse practitioner or, where the individual has an impairment with respect to the individual's ability in walking or in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, has certified in prescribed form that the individual has an impairment referred to in subparagraph ii of subparagraph a;

(c) the individual has filed with the Minister the certificate referred to in paragraph b or b.1 for the year; and

(d) neither the individual nor any other person has included, in computing a deduction under section 752.0.11 for the year, otherwise than by reason of paragraph m.1 of section 752.0.11.1, an amount in respect of remuneration for an attendant or care in a nursing home, in respect of the individual.

Restriction.

Despite the first paragraph, if the individual is a person in respect of whom another individual receives, in the year, an amount to which subparagraph b of the second paragraph of section 1029.8.61.18 refers, the amount in dollars that, with reference to section 750.2, would otherwise be deductible under that first paragraph for the year is to be replaced by an amount equal to the proportion of that amount that the number of months in the year in respect of which such an amount is not received in respect of the individual is of 12.

History: 1989, c. 5, s. 104; 1993, c. 16, s. 282; 1997, c. 85, s. 330; 2000, c. 5, s. 166; 2001, c. 51, s. 61; 2001, c. 53, s. 117; 2003, c. 2, s. 223; 2005, c. 1, s. 165; 2005, c. 38, s. 150; 2006, c. 36, s. 73; 2009, c. 5, s. 289; 2017, c. 29, s. 151; 2019, c. 14, s. 227.

Corresponding Federal Provision: 118.3(1).

752.0.15. (Repealed).

History: 1989, c. 5, s. 104; 1993, c. 16, s. 283; 1993, c. 64, s. 72; 1994, c. 22, s. 264; 1995, c. 1, s. 81; 1997, c. 14, s. 290; 1997, c. 85, s. 330; 2000, c. 39, s. 63; 2001, c. 51, s. 62; 2003, c. 9, s. 85; 2005, c. 1, s. 166; 2005, c. 38, s. 151.

752.0.15.1. (Repealed).

History: 2000, c. 39, s. 64; 2005, c. 1, s. 167; 2005, c. 38, s. 151.

752.0.16. (Repealed).

History: 1989, c. 5, s. 104; 2005, c. 38, s. 151.

Interpretation.

752.0.17. For the purposes of sections 42.0.1 and 752.0.11 to 752.0.14 and this section,

(a) an impairment is prolonged where it has lasted, or may reasonably be expected to last, for a continuous period of at least 12 months;

(b) an individual's ability to perform a basic activity of daily living is markedly restricted solely where

i. all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual is blind or unable, or requires an inordinate amount of time, to perform a basic activity of daily living, or

ii. because of a chronic disease, the individual must spend, at least twice a week, a total of not less than 14 hours on therapy, prescribed by a physician, that is essential to sustain one of the individual's vital functions;

(b.1) an individual is considered to have the equivalent of a marked restriction in a basic activity of daily living only where all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual's ability to perform more than one basic activity of daily living, including the ability to see, is significantly restricted, and the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living;

(c) a basic activity of daily living of an individual means

- i. mental functions necessary for everyday life,
- ii. feeding or dressing oneself,
- iii. speaking so as to be understood, in a quiet setting,
- iv. hearing so as to understand, in a quiet setting,
- v. eliminating (bowel or bladder functions), or
- vi. walking;

(d) for greater certainty, no other activity, including working, housekeeping or a social or recreational activity, shall be considered as a basic activity of daily living;

(d.1) mental functions necessary for everyday life include

- i. memory,
- ii. problem solving, goal-setting and judgement, and
- iii. adaptive functioning;

(e) feeding oneself does not include

i. identifying, finding, shopping for or otherwise procuring food, or

ii. preparing food to the extent that the time associated with the activity would not have been necessary in the absence of a dietary restriction or regime; and

(f) dressing oneself does not include identifying, finding, shopping for or otherwise procuring clothing.

Restriction.

For the purposes of subparagraph ii of subparagraph *b* of the first paragraph, the therapy essential to sustain one of the vital functions of an individual who is suffering from a chronic disease does not include therapy that may reasonably be expected to have a beneficial effect on an individual who is not suffering from such a chronic disease.

Information.

Where an amount has been deducted under section 752.0.14 or 776.41.5 in respect of an individual, any person referred to in that section shall, on request in writing by the Minister for information with respect to the individual's impairment and its effect on the individual or with respect to the therapy referred to in subparagraph ii of subparagraph *b* of the first paragraph that is, where applicable, required to be administered to the individual, provide the information so requested in writing.

History: 1989, c. 5, s. 104; 1990, c. 59, s. 290; 1993, c. 16, s. 284; 2000, c. 39, s. 65; 2002, c. 40, s. 69; 2003, c. 2, s. 224; 2003, c. 9, s. 86; 2005, c. 1, s. 168; 2005, c. 38, s. 152; 2006, c. 36, s. 74.

Corresponding Federal Provision: 118.4(1), (2) and (4).

“practitioner”.

752.0.18. For the purposes of sections 358.0.1 and 752.0.11 to 752.0.14, “practitioner” means

(a) a person practising a profession within the scope of which health-related care and treatments are provided to individuals, unless the person is practising a profession described in the second paragraph, in which case, a person practising such a profession in respect of the services mentioned in that paragraph, and who is authorized to practise such a profession in accordance with

i. the laws of the jurisdiction in which services are rendered, in the case of services rendered by such a person to an individual,

ii. the laws of the jurisdiction in which an individual resides or of a province, in the case of a certificate issued by such a person in respect of that individual, or

iii. the laws of the jurisdiction in which an individual resides, of a province or of the jurisdiction in which the property is provided, in the case of a prescription issued by such a person for property to be provided to or for the use of the individual;

(b) a person practising the profession of homeopath, naturopath, osteopath or phytotherapist, in respect of the services the person provides in that capacity; and

(c) *(paragraph repealed)*;

(d) *(paragraph repealed)*.

(e) a person (other than a person described in subparagraph a) who is authorized to practise psychotherapy in accordance with the laws of the jurisdiction in which the person renders psychotherapy services, in respect of such services.

Professions.

The professions to which subparagraph a of the first paragraph refers are

(a) the profession of psychologist, in respect of therapy and rehabilitation services;

(b) the profession of social worker, in respect of psychotherapy services and rehabilitation services for accident victims or persons suffering from an illness or disability;

(c) the profession of vocational guidance counsellor or psychoeducator, in respect of psychotherapy services;

(d) the profession of sexologist or marriage and family therapist, in respect of therapy services; and

(e) the profession of criminologist, in respect of psychotherapy services.

Health professionals.

For the purposes of sections 752.0.11 to 752.0.14 and 1029.8.66.1, a reference to an audiologist, dentist, occupational therapist, nurse, specialized nurse practitioner, physician, optometrist, speech-language pathologist, pharmacist, physiotherapist or psychologist is a reference to a person authorized to practise as such in accordance with any of subparagraphs i to iii of subparagraph a of the first paragraph.

History: 1989, c. 5, s. 104; 1990, c. 59, s. 291; 1995, c. 1, s. 82; 1997, c. 14, s. 290; 2000, c. 5, s. 167; 2001, c. 53, s. 118; 2003, c. 2, s. 225; 2005, c. 38, s. 153; 2006, c. 36, s. 75; 2011, c. 6, s. 158; 2015, c. 21, s. 293; 2019, c. 14, s. 228.

Corresponding Federal Provision: 118.4(2).

Dependant of an individual.

752.0.18.0.1. For the purposes of sections 752.0.12 and 752.0.13.2, a dependant of an individual during a taxation year means a person who

(a) is supported by the individual during the year;

(b) during the year, lives ordinarily with the individual or is deemed to live ordinarily with the individual under the second paragraph; and

(c) is the child, grandchild, brother, sister, nephew, niece, uncle, aunt, great-uncle, great-aunt, father, mother or any other direct ascendant of the individual or of the spouse of the individual.

Presumption.

For the purposes of subparagraph b of the first paragraph, a person who, during a year, does not live ordinarily with the individual and who, during the year, is a dependant of the individual by reason of mental or physical infirmity, is deemed to ordinarily live with that individual during that year, except if the person has not been resident in Canada at any time in the year where the person is not the child or grandchild of the individual or of the spouse of the individual.

History: 2005, c. 1, s. 169; 2019, c. 14, s. 229.

CHAPTER I.0.3.1

(Repealed).

752.0.18.1. *(Repealed)*.

History: 1993, c. 64, s. 73; 1997, c. 14, s. 290; 1997, c. 85, s. 330; 2001, c. 51, s. 63; 2005, c. 1, s. 170.

752.0.18.2. *(Repealed)*.

History: 1997, c. 14, s. 118; 1997, c. 85, s. 134; 1999, c. 83, s. 97; 2000, c. 39, s. 264; 2001, c. 51, s. 64; 2002, c. 40, s. 70; 2003, c. 9, s. 87; 2005, c. 1, s. 170.

CHAPTER I.0.3.2

TAX CREDITS FOR DUES TO A PROFESSIONAL ASSOCIATION OR TO CERTAIN OTHER ENTITIES AND FOR A CONTRIBUTION TO THE OFFICE DES PROFESSIONS DU QUÉBEC

Tax credit for dues in relation to an office or employment.

752.0.18.3. An individual who, in a taxation year, performs the duties of an office or employment may deduct, from the individual's tax otherwise payable for the year under this Part, an amount equal to the amount obtained by multiplying 10% by the aggregate of all amounts each of which is an amount paid by the individual in the year, to the extent that the individual has not been reimbursed, and is not entitled to be reimbursed, in respect of the amount by the entity to which it is paid, or an amount paid on behalf of the individual in the year, if the amount is required to be included in computing the individual's income for the year, as any of the following dues or contributions, provided the amount may reasonably be regarded as relating to the office or employment:

(a) annual professional membership dues the payment of which was necessary to maintain a professional status recognized by statute;

(b) annual dues the payment of which was necessary to maintain membership in an association of employees within the meaning of the Labour Code (chapter C-27);

(c) annual dues that were retained by the individual's employer from the individual's remuneration in accordance with a collective agreement and paid to an association of employees within the meaning of the Labour Code of which the individual was not a member;

(d) dues to a parity or advisory committee or similar body, the payment of which was required under the Act respecting collective agreement decrees (chapter D-2) or under similar laws of a province other than Québec by reason of the individual's employment for the year;

(e) annual dues to the Commission de la construction du Québec, the payment of which was required under the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) by reason of the duties of an office or employment performed by the individual in the year;

(f) annual dues the payment of which was necessary to maintain membership in an association of employees recognized by the Minister as an association of employees the primary object of which is to study, safeguard and promote the economic interests of its members;

(g) annual dues the payment of which was necessary to maintain membership in an artists' association recognized by the Minister on the recommendation of the Minister of Culture and Communications;

(h) a contribution the individual was required to pay under section 10 of the Act to amend the Professional Code (1995, chapter 50) or section 196.2 of the Professional Code (chapter C-26);

(i) *(paragraph repealed)*.

History: 1997, c. 14, s. 118; 1997, c. 85, s. 330; 2001, c. 51, s. 65; 2003, c. 9, s. 88; 2007, c. 3, s. 72; 2008, c. 11, s. 185; O.C. 938-2008; O.C. 1159-2008; 2009, c. 15, s. 146; 2015, c. 21, s. 294; 2015, c. 24, s. 103; 2020, c. 16, s. 106.

Interpretation Bulletins: IMP. 80-3/R5.

Corresponding Federal Provision: 8(1)(i).

Dues paid after the end of a year.

752.0.18.4. Where, in a particular taxation year, an individual pays, in relation to the duties of an office or employment performed by him in the preceding taxation year, an amount as dues referred to in any of paragraphs *b* to *g* of section 752.0.18.3, the individual is deemed, in respect

of that amount, to have performed the duties of that office or employment in the particular taxation year.

Exception.

The presumption established in the first paragraph does not apply in respect of an amount paid by an individual in a particular taxation year, in relation to the duties of an office or employment performed by him in the preceding taxation year, as dues referred to in paragraph *f* of section 752.0.18.3, where the individual included, in the aggregate referred to in that section for the preceding taxation year, an amount paid by him in that year, in relation to the office or employment, as dues referred to in any of paragraphs *b* to *e* of that section.

History: 1997, c. 14, s. 118; 2005, c. 1, s. 171; 2020, c. 16, s. 107.

Dues to an association recognized by the Minister.

752.0.18.5. Where, in a taxation year, an individual pays, in relation to the duties of an office or employment performed by him in the year, an amount as dues referred to in any of paragraphs *b* to *e* of section 752.0.18.3 and includes that amount in the aggregate referred to in that section for the year, he shall not include, in that aggregate, an amount paid by him in the year, in relation to that office or employment, as dues referred to in paragraph *f* of that section.

History: 1997, c. 14, s. 118; 2005, c. 1, s. 172; 2020, c. 16, s. 107.

Exclusions.

752.0.18.6. The dues referred to in any of paragraphs *a*, *b* and *d* to *g* of section 752.0.18.3 do not include the portion thereof that is, in effect, levied under a retirement plan, a plan for annuities, insurance or similar benefits, or for any other purpose not directly related to the ordinary operating expenses of the entity to which they were paid or that corresponds to the Québec sales tax or the goods and services tax in respect of such dues.

Amount of dues.

However, where an individual is not entitled to a rebate of the Québec sales tax under the Act respecting the Québec sales tax (chapter T-0.1) or of the goods and services tax under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of dues referred to in paragraph *a* of section 752.0.18.3, the amount of the dues includes the part thereof that corresponds to the Québec sales tax or the goods and services tax in respect of such dues.

History: 1997, c. 14, s. 118; 2002, c. 40, s. 71; 2005, c. 1, s. 173; 2020, c. 16, s. 108.

Corresponding Federal Provision: 8(5).

Non-taxable income from an office or employment.

752.0.18.7. Where, in a taxation year, an individual pays, in relation to the duties of an office or employment performed by him in the year, an amount as dues or a contribution described in section 752.0.18.3, he shall not

include that amount in the aggregate referred to in that section for the year if all of his income for the year from that office or employment is not required to be included in computing his income for the year or is deductible in computing his taxable income for the year under any of sections 725, 737.16, 737.18.10, 737.18.34, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7 and 737.22.0.10.

History: 1997, c. 14, s. 118; 1997, c. 85, s. 135; 1999, c. 83, s. 98; 2000, c. 39, s. 264; 2002, c. 40, s. 72; 2003, c. 9, s. 89; 2013, c. 10, s. 54.

Tax credit for dues referred to in section 134.1.

752.0.18.8. An individual may deduct, from the individual's tax otherwise payable for a taxation year under this Part, an amount equal to the amount obtained by multiplying 10% by the aggregate of all amounts each of which is an amount that would, but for section 134.1, be deductible in computing the individual's income for the year from a business or property as dues or a contribution referred to in any of subparagraphs *a* to *c* of the first paragraph of section 134.1 and that has not been taken into account in determining an amount that was deducted under this section in computing the individual's tax payable under this Part for a preceding taxation year.

History: 1997, c. 14, s. 118; 1997, c. 85, s. 330; 2001, c. 51, s. 66; 2015, c. 24, s. 104.

Interpretation Bulletins: IMP. 80-3/R5.

Non-taxable income from a business or property.

752.0.18.9. If an amount would, but for section 134.1, be deductible in computing an individual's income for a taxation year from a business or property as dues or a contribution referred to in any of subparagraphs *a* to *c* of the first paragraph of that section, the individual shall not include that amount in the aggregate referred to in section 752.0.18.8 for the year if all of the individual's income for the year from that business or property is not required to be included in computing the individual's income for the year or is deductible in computing the individual's taxable income for the year under any of sections 725, 737.16, 737.18.10, 737.18.34 and 737.22.0.10.

History: 1997, c. 14, s. 118; 2000, c. 39, s. 264; 2003, c. 9, s. 90; 2010, c. 25, s. 73.

CHAPTER I.0.3.3

TAX CREDIT FOR TUITION FEES AND EXAMINATION FEES

Tax credit for tuition fees and examination fees.

752.0.18.10. An individual may deduct from the individual's tax otherwise payable for a taxation year under this Part an amount equal to the aggregate of

(*a*) the amount obtained by multiplying 8% by the amount by which the amount determined for the year under

subparagraph *a* of the first paragraph of section 752.0.18.13.1 is exceeded by the aggregate of

i. the amount of the individual's tuition fees paid in respect of the year or a preceding year if that year is subsequent to the taxation year 2013, where the conditions set out in section 752.0.18.13 are met in respect of that amount and where the individual was, in the year in respect of which those fees are paid, an enrolled student and the fees are paid to one of the following educational institutions:

(1) an educational institution in Canada that is a university, college or other institution providing post-secondary education,

(2) an educational institution in Canada recognized by the Minister to be an institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation,

(3) an educational institution in the United States that is a university, college or other institution providing post-secondary education, if the individual resided in Canada throughout the year near the boundary between Canada and the United States, commuted between the individual's residence and the educational institution and paid the fees in respect of an instructional program at the post-secondary school level, or

(4) a university outside Canada if the individual pursued full-time studies leading to a degree, for a period of at least three consecutive weeks,

ii. the amount of the individual's examination fees paid in respect of the year or a preceding year if that year is subsequent to the taxation year 2013 to a professional order mentioned in Schedule I to the Professional Code (chapter C-26) where the examination is required to allow the individual to become a member of the order and the conditions set out in section 752.0.18.13 are met in respect of that amount,

iii. the amount of the individual's examination fees paid in respect of the year or a preceding year if that year is subsequent to the taxation year 2013 to a professional organization in Canada or the United States, where the conditions set out in section 752.0.18.13 are met in respect of that amount and the individual must pass the examination in order to

(1) be issued a licence or permit to practise by a professional order mentioned in Schedule I to the Professional Code,

(2) be granted a title by the Canadian Institute of Actuaries, or

(3) be permitted to take another examination of that professional organization which the individual must pass in order to be issued a licence or permit referred to in

subparagraph 1 or be granted a title referred to in subparagraph 2,

iv. the amount of the individual's examination fees paid in respect of the year or a preceding year if that year is subsequent to the taxation year 2013 to an educational institution referred to in subparagraph 1 or 2 of subparagraph i, a professional association, a provincial government department or other similar institution, in relation to an examination the individual has taken in the year if

(1) the conditions set out in section 752.0.18.13 are met in respect of that amount, and

(2) the examination is required to obtain a professional status recognized under a law of Canada or of a province, or a licence or certification in respect of a trade, where that status, licence or certification allows the individual to practise the profession or trade in Canada,

v. the amount of the individual's tuition fees paid in respect of the taxation year 2013 to an educational institution referred to in any of subparagraphs 1, 3 and 4 of subparagraph i if

(1) the conditions set out in section 752.0.18.13 are met in respect of that amount, and

(2) the fees are attributable to a term of study that began after 27 March 2013 and in respect of which the individual was an enrolled student,

vi. the amount of the individual's tuition fees paid in respect of the taxation year 2013 to an educational institution referred to in subparagraph 2 of subparagraph i if

(1) the conditions set out in section 752.0.18.13 are met in respect of that amount, and

(2) the fees are attributable to training, other than training that is part of an instructional program at the post-secondary school level, in which the individual enrolled after 28 March 2013, and

vii. the amount of the individual's examination fees paid in respect of the taxation year 2013, in relation to an examination the individual has taken in the year and after 30 April 2013 if

(1) the conditions set out in section 752.0.18.13 are met in respect of that amount, and

(2) the examination fees would be referred to in any of subparagraphs ii to iv if that subparagraph were read without reference to "in respect of the year or a preceding year if that year is subsequent to the taxation year 2013"; and

(b) the amount obtained by multiplying 20% by the amount by which the amount determined for the year under

subparagraph *b* of the first paragraph of section 752.0.18.13.1 is exceeded by the aggregate of

i. the amount of the individual's tuition fees that would be referred to in subparagraph i of paragraph *a* if

(1) the portion of that subparagraph i before subparagraph 1 were read as if "if that year is subsequent to the taxation year 2013" were replaced by "if that year is subsequent to the taxation year 1996 and precedes the taxation year 2013", and

(2) subparagraph 4 of that subparagraph i were read as if "three consecutive weeks" were replaced by "thirteen consecutive weeks" in respect of fees referred to in that subparagraph 4 and paid for a taxation year preceding the taxation year 2011,

ii. the amount of the individual's examination fees that would be referred to in subparagraph ii of paragraph *a* if that subparagraph ii were read as if "if that year is subsequent to the taxation year 2013" were replaced by "if that year is subsequent to the taxation year 1996 and precedes the taxation year 2013",

iii. the amount of the individual's examination fees that would be referred to in subparagraph iii of paragraph *a* if the portion of that subparagraph iii before subparagraph 1 were read as if "if that year is subsequent to the taxation year 2013" were replaced by "if that year is subsequent to the taxation year 2004 and precedes the taxation year 2013",

iv. the amount of the individual's examination fees that would be referred to in subparagraph iv of paragraph *a* if the portion of that subparagraph iv before subparagraph 1 were read as if "if that year is subsequent to the taxation year 2013" were replaced by "if that year is subsequent to the taxation year 2010 and precedes the taxation year 2013",

v. the amount of the individual's tuition fees that would be referred to in subparagraph v of paragraph *a* if subparagraph 2 of that subparagraph v were read as if "after 27 March 2013" were replaced by "before 28 March 2013",

vi. the amount of the individual's tuition fees that would be referred to in subparagraph vi of paragraph *a* if subparagraph 2 of that subparagraph vi were read as if "after 28 March 2013" were replaced by "before 29 March 2013", and

vii. the amount of the individual's examination fees that would be referred to in subparagraph vii of paragraph *a* if the portion of that subparagraph vii before subparagraph 1 were read as if "after 30 April 2013" were replaced by "before 1 May 2013".

History: 1997, c. 85, s. 136; 2000, c. 5, s. 168; 2001, c. 51, s. 67; 2003, c. 2, s. 226; 2006, c. 13, s. 58; 2009, c. 5, s. 290; 2010, c. 5, s. 61; 2012, c. 8, s. 122; 2015, c. 21, s. 295; 2019, c. 14, s. 230.

Corresponding Federal Provision: 118.5(1)(a)(i) and (ii), (b)(i), (c)(i) and (ii) and (d) before (i).

Inclusion of ancillary fees and charges.

752.0.18.10.1. For the purposes of section 752.0.18.10, the tuition fees of an individual include ancillary fees and charges that are paid to an educational institution referred to in subparagraph 1 of subparagraph i of paragraph *a* of section 752.0.18.10 in respect of the individual's enrolment in a program at a post-secondary school level, but do not include

(a) any fee or charge to the extent that it is levied in respect of

i. a student association,

ii. property to be acquired by students,

iii. services not ordinarily provided at educational institutions in Canada that offer courses at a post-secondary school level,

iv. (*subparagraph repealed*);

v. the construction, renovation or maintenance of any building or facility, except to the extent that the building or facility is owned by the educational institution and used to provide

(1) courses at the post-secondary school level, or

(2) services for which, if fees or charges in respect of the services were required to be paid by all students of the educational institution, the fees or charges would be included because of this section in the fees for an individual's tuition; and

(b) any fee or charge for a taxation year that, but for this paragraph, would be included because of this section in the fees for the individual's tuition and that is not required to be paid by all of the educational institution's full-time students, where the individual is a full-time student at the educational institution, and all of the educational institution's part-time students, where the individual is a part-time student at the educational institution, to the extent that the total amount for the year of all such fees and charges paid in respect of the individual's enrolment at the institution exceeds \$250.

History: 2000, c. 5, s. 169; 2001, c. 51, s. 68; 2002, c. 40, s. 73; 2010, c. 5, s. 62; 2015, c. 21, s. 296.

Corresponding Federal Provision: 118.5(3).

Ancillary fees and charges for examinations.

752.0.18.10.2. For the purposes of section 752.0.18.10, the examination fees of an individual include ancillary fees and charges, other than fees and charges included in section 752.0.18.10.1, that are paid to an educational institution referred to in subparagraph 1 of subparagraph i of

paragraph *a* of section 752.0.18.10, a professional order referred to in subparagraph ii of that paragraph, a professional organization referred to in subparagraph iii of that paragraph, or a professional association, a provincial government department or other similar institution referred to in subparagraph iv of that paragraph, in relation to an examination taken by the individual, but do not include any fee or charge to the extent that it is levied in respect of

(a) property to be acquired by an individual;

(b) the construction, renovation or maintenance of any building or facility; or

(c) any fee or charge for a taxation year that, but for this paragraph, would be included because of this section in the individual's examination fees and that is not required to be paid by all the individuals taking the examination to the extent that the total for the year of all such fees and charges paid in respect of the individual's examination fees exceeds \$250.

History: 2012, c. 8, s. 123; 2015, c. 21, s. 297.

Corresponding Federal Provision: 118.5(4).

Restriction.

752.0.18.11. The deduction provided for in section 752.0.18.10 in respect of an individual is allowable only if the total amount of the tuition fees and the examination fees paid in respect of a taxation year exceeds \$100.

History: 1997, c. 85, s. 136.

Corresponding Federal Provision: 118.5(1)(a) part before (ii.1).

Non-allowable tuition fees and examination fees.

752.0.18.12. For the purposes of section 752.0.18.10, the amount of tuition fees and examination fees paid in respect of a taxation year does not include

(a) an amount paid for one of those purposes on the individual's behalf by the individual's employer or by an employer of the individual's father or mother, or an amount reimbursed for one of those purposes to the individual or the individual's father or mother by such an employer, unless the amount is included in computing the individual's income or that of the individual's father or mother, as the case may be;

(b) where the tuition fees are paid to an educational institution referred to in subparagraph 1 or 2 of subparagraph i of paragraph *a* of section 752.0.18.10,

i. the fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of the State or of Her Majesty in right of Canada or a province, other than Québec, designed to facilitate the entry or re-entry of workers into the labour force, where the amount of the reimbursement or assistance,

as the case may be, is not included in computing the individual's income, or

ii. the fees paid on the individual's behalf, or in respect of which the individual is or was entitled to receive a reimbursement, under a program of Her Majesty in right of Canada designed to assist athletes, where the payment or reimbursement, as the case may be, is not included in computing the individual's income;

(c) the fees paid to an educational institution referred to in subparagraph 1 of subparagraph i of paragraph *a* of section 752.0.18.10 in respect of an instructional program that is not at the post-secondary school level or the fees paid to an educational institution referred to in subparagraph 2 of that subparagraph i, if

i. the individual had not yet reached 16 years of age at the end of the year in respect of which the fees are paid, or

ii. it is not reasonable to consider that the purpose of the individual's enrolment at the institution was to furnish the individual with skills for, or to improve the individual's skills in, an occupation;

(d) the examination fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of the State or of Her Majesty in right of Canada or a province, other than Québec, designed to facilitate the entry or re-entry of workers into the labour force, where the amount of the reimbursement or assistance, as the case may be, is not included in computing the individual's income.

History: 1997, c. 85, s. 136; 1998, c. 16, s. 186; 2000, c. 5, s. 170; 2001, c. 7, s. 169; 2006, c. 13, s. 59; 2010, c. 5, s. 63; 2012, c. 8, s. 124; 2015, c. 21, s. 298; 2019, c. 14, s. 231.

Corresponding Federal Provision: 118.5(1)(a) (ii.1), (ii.2), (iii), (iii.1) and (iv) and (d)(i) and (ii).

Individual not resident in Canada in a preceding year.

752.0.18.12.1. For the application of section 752.0.18.10 to an individual for a particular taxation year, the aggregate of the amounts described in that section does not include the amount of the tuition fees and examination fees paid in respect of a preceding year throughout which the individual was not resident in Canada.

History: 2006, c. 13, s. 60.

Amount deducted in preceding year.

752.0.18.13. The conditions to which section 752.0.18.10 refers in respect of an amount for a taxation year in relation to an individual are as follows:

(a) the amount was not taken into account in determining an amount that was deducted under this chapter in computing the individual's tax payable under this Part for a preceding taxation year;

(b) the amount was not taken into account in determining an amount that was deducted under section 118.5, 118.8, 118.9 or 118.61 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the individual's or another person's tax payable under that Act for a preceding taxation year in respect of which the individual was not subject to tax under this Part.

History: 1997, c. 85, s. 136; 2011, c. 6, s. 159.

Interpretation Bulletins: IMP. 752.0.18.10-1/R1.

Transfer to parent or grandparent.

752.0.18.13.1. For the purpose of determining the amount that an individual may deduct from the individual's tax otherwise payable for a taxation year under section 752.0.18.10, the following rules apply:

(a) the amount referred to in the portion of paragraph *a* of section 752.0.18.10 before subparagraph i is equal to the aggregate of all amounts each of which is, subject to subparagraph *a* of the third paragraph, determined by the formula

$A/8\%$; and

(b) the amount referred to in the portion of paragraph *b* of section 752.0.18.10 before subparagraph i is equal to the aggregate of all amounts each of which is, subject to subparagraph *b* of the third paragraph, determined by the formula

$B/20\%$.

Interpretation.

In the formulas in subparagraphs *a* and *b* of the first paragraph,

(a) *A* is an amount transferred by the individual to another individual, in accordance with section 776.41.21, for the year or a preceding taxation year in respect of fees referred to in any of subparagraphs i to iv of paragraph *a* of section 752.0.18.10; and

(b) *B* is an amount transferred by the individual to another individual, in accordance with section 776.41.21, for the year or a preceding taxation year in respect of fees referred to in any of subparagraphs i to iv of paragraph *b* of section 752.0.18.10.

Special rules for the taxation year 2013.

For the purposes of the first paragraph, if the individual has transferred a particular amount to another individual, in accordance with section 776.41.21, for the taxation year 2013, the following rules apply:

(a) the amount determined by the formula in subparagraph *a* of the first paragraph in respect of fees referred to in any of subparagraphs v to vii of paragraph *a* of section 752.0.18.10

is deemed to be equal to the aggregate of those fees multiplied by the proportion that the particular amount is of the total of

i. the amount obtained by multiplying 8% by the aggregate of the fees referred to in any of subparagraphs v to vii of paragraph *a* of section 752.0.18.10, and

ii. the amount obtained by multiplying 20% by the aggregate of the fees referred to in any of subparagraphs v to vii of paragraph *b* of section 752.0.18.10; and

(*b*) the amount determined by the formula in subparagraph *b* of the first paragraph in respect of fees referred to in any of subparagraphs v to vii of paragraph *b* of section 752.0.18.10 is deemed to be equal to the aggregate of those fees multiplied by the proportion that the particular amount is of the total of

i. the amount obtained by multiplying 8% by the aggregate of the fees referred to in any of subparagraphs v to vii of paragraph *a* of section 752.0.18.10, and

ii. the amount obtained by multiplying 20% by the aggregate of the fees referred to in any of subparagraphs v to vii of paragraph *b* of section 752.0.18.10.

History: 2009, c. 5, s. 291; 2015, c. 21, s. 299.

Past-year residents.

752.0.18.14. Where an individual is absent from Canada but resident in Québec for all or part of a taxation year in respect of which tuition fees are paid, subparagraphs 1 and 2 of subparagraph i of paragraph *a* of section 752.0.18.10 are to be read, in relation to fees paid in respect of that year, without reference to “in Canada”.

History: 1997, c. 85, s. 136; 2015, c. 21, s. 300.

Corresponding Federal Provision: 118.5(2).

CHAPTER I.0.3.3.1

CREDIT FOR INTEREST ON STUDENT LOANS

Tax credit for interest paid on student loans.

752.0.18.15. An individual may deduct from the individual’s tax otherwise payable for a taxation year under this Part an amount equal to the amount obtained by multiplying 20% by the aggregate of all amounts each of which is an amount of interest, other than any amount paid on account of or in satisfaction of interest under a judgment, paid in the year or in a preceding taxation year that is after the year 1997 by the individual or a person related to the individual on a loan made to, or other amount owing by, the individual under

(*a*) the Act respecting financial assistance for education expenses (chapter A-13.3);

(*b*) the Canada Student Loans Act (Revised Statutes of Canada, 1985, chapter S-23);

(*c*) the Canada Student Financial Assistance Act (Statutes of Canada, 1994, chapter 28);

(*c.1*) the Apprentice Loans Act (Statutes of Canada, 2014, chapter 20, section 483); or

(*d*) a law of a province other than Québec governing the granting of financial assistance to students at the post-secondary school level.

Amount of interest taken into account in another year.

However, in computing the deduction provided for in the first paragraph in respect of an individual for a taxation year, an amount of interest paid in a preceding taxation year shall not be taken into account if it was taken into account in determining an amount that was deducted under this section for another taxation year or if it was taken into account in determining an amount that was deducted under section 118.62 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for a taxation year in which the individual was not subject to tax under this Part.

History: 2001, c. 53, s. 119; 2017, c. 1, s. 200; 2017, c. 29, s. 152.

Corresponding Federal Provision: 118.62.

CHAPTER I.0.4

(Repealed).

752.0.19. *(Repealed).*

History: 1989, c. 5, s. 104; 1993, c. 64, s. 74; 1997, c. 14, s. 290; 1997, c. 85, s. 138; 2000, c. 39, s. 66; 2001, c. 53, s. 120; 2003, c. 9, s. 91.

CHAPTER I.0.5

(Repealed).

752.0.20. *(Repealed).*

History: 1989, c. 5, s. 104; 1990, c. 7, s. 62; 1991, c. 8, s. 45; 1992, c. 1, s. 56; 1993, c. 19, s. 55; 1993, c. 64, s. 75; 1995, c. 1, s. 83; 1995, c. 63, s. 60.

752.0.21. *(Repealed).*

History: 1989, c. 5, s. 104; 1990, c. 7, s. 63; 1994, c. 22, s. 265; 1995, c. 63, s. 60.

CHAPTER I.0.6

ORDERING OF CREDITS

Ordering of credits.

752.0.22. For the purpose of computing the tax payable under this Part by an individual, the following provisions are to be applied in the following order: sections 752.0.0.1, 752.0.1, 776.41.14, 752.0.7.4, 752.0.10.0.3, 752.0.18.3, 752.0.18.8, 752.0.10.0.9, 776.1.5.0.17, 776.1.5.0.18,

752.0.10.0.5, 752.0.10.0.7, 752.0.14, 752.0.11 to 752.0.13.1.1, 776.41.21, 752.0.10.6.1, 752.0.10.6, 752.0.10.6.2, 752.0.18.10, 752.0.18.15, 767 and 776.41.5.

History: 1989, c. 5, s. 104; 1990, c. 7, s. 64; 1993, c. 19, s. 56; 1993, c. 64, s. 76; 1997, c. 14, s. 119; 1997, c. 85, s. 139; 2001, c. 53, s. 121; 2003, c. 9, s. 92; 2005, c. 1, s. 174; 2005, c. 38, s. 154; 2006, c. 36, s. 76; 2009, c. 5, s. 292; 2011, c. 34, s. 37; 2012, c. 8, s. 125; 2015, c. 21, s. 301; 2015, c. 24, s. 105; 2019, c. 14, s. 232.

Corresponding Federal Provision: 118.92.

CHAPTER I.0.7

INDIVIDUALS RESIDENT IN QUÉBEC AND CARRYING ON BUSINESS OUTSIDE QUÉBEC IN CANADA AND INDIVIDUALS RESIDENT IN CANADA OUTSIDE QUÉBEC AND CARRYING ON BUSINESS IN QUÉBEC

Maximum allowable deduction.

752.0.23. Where an individual is referred to in the second paragraph of section 22 or 25, the amount that the individual may deduct under sections 752.0.0.1 to 752.0.18.15, except section 752.0.10.0.9, in computing the individual's tax payable for a taxation year under this Part may not exceed the portion of that amount that is represented by the proportion referred to in the second paragraph of section 22 or 25, as the case may be.

History: 1989, c. 5, s. 104; 1993, c. 64, s. 77; 2003, c. 9, s. 93; 2005, c. 1, s. 175; 2019, c. 14, s. 232.

752.0.23.1. *(Repealed).*

History: 2005, c. 38, s. 155; 2009, c. 5, s. 293.

CHAPTER I.0.8

INDIVIDUALS RESIDENT IN CANADA FOR PART OF THE YEAR

Individual resident in Canada for part of the year.

752.0.24. Where an individual is resident in Canada only during part of a taxation year, the following rules apply for the purpose of computing his tax payable under this Part for the year:

(a) only the following amounts may be deducted by the individual under sections 752.0.0.1 to 752.0.7, 752.0.10.0.2 to 752.0.10.0.9 and 752.0.10.1 to 752.0.18.15 in respect of any period in the year throughout which the individual was resident in Canada:

i. such of the amounts deductible under any of sections 752.0.10.0.2 to 752.0.10.0.9, 752.0.10.6 to 752.0.10.6.2, 752.0.11 to 752.0.13.3, 752.0.18.3, 752.0.18.8, 752.0.18.10 and 752.0.18.15 as can reasonably be considered wholly attributable to such a period, computed as though that period were a whole taxation year, and

ii. such of the amounts as the individual would be allowed to deduct for the year under any of sections 752.0.0.1, 752.0.1 to 752.0.7 and 752.0.14 if the deduction were computed with each particular amount in dollars that is referred to in any of those sections and that would otherwise be applicable for the year, with reference to section 750.2, replaced by the proportion of the particular amount that the number of days in that period is of the number of days in the year, and as though that period were a whole taxation year; and

iii. *(subparagraph repealed);*

(b) the amount deductible for the year under any of sections 752.0.0.1 to 752.0.7, 752.0.10.0.2 to 752.0.10.0.7 and 752.0.10.1 to 752.0.18.15 in respect of a period in the year that is not referred to in subparagraph a is to be computed as though such a period were a whole taxation year.

Maximum deductible.

However, the amount deductible for the year by the individual under any of sections 752.0.0.1 to 752.0.7, 752.0.10.0.2 to 752.0.10.0.7 and 752.0.10.1 to 752.0.18.15 must not exceed the amount that would have been deductible under that section had the individual been resident in Canada throughout the year.

History: 1989, c. 5, s. 104; 1990, c. 7, s. 65; 1993, c. 16, s. 285; 1993, c. 19, s. 57; 1993, c. 64, s. 78; 1995, c. 49, s. 174; 1997, c. 14, s. 120; 1997, c. 85, s. 140; 2001, c. 53, s. 122; 2003, c. 9, s. 94; 2005, c. 1, s. 176; 2005, c. 38, s. 156; 2009, c. 5, s. 294; 2012, c. 8, s. 126; 2013, c. 10, s. 55; 2015, c. 21, s. 302; 2015, c. 24, s. 106; 2019, c. 14, s. 233.

Corresponding Federal Provision: 118.91(a) and (b) and after (b).

Rule applicable to individual resident in Canada during part of year.

752.0.24.1. For the purposes of sections 752.0.0.4 to 752.0.0.6, if an individual to whom section 752.0.0.3 applies for a taxation year is resident in Canada only during part of the year, there shall be taken into account, as a covered benefit attributable to the year, only an amount that can reasonably be considered wholly attributable to any period in the year throughout which the individual was resident in Canada.

History: 2005, c. 38, s. 157; 2009, c. 5, s. 295.

CHAPTER I.0.9

INDIVIDUALS RESIDENT OUTSIDE CANADA

Applicability.

752.0.25. Where an individual is referred to in the second paragraph of section 26, sections 752.0.0.1 to 752.0.18.15 do not apply for the purpose of computing the individual's tax payable under this Part for a taxation year.

Exception.

However, the individual may deduct, in computing the individual's tax payable under this Part for such a taxation year,

(a) where all or substantially all of the individual's income for the year, as determined under section 28, is included in computing the individual's taxable income earned in Canada for the year, determined with reference to the third paragraph, such portion of the amounts determined under sections 752.0.0.1 to 752.0.10, 752.0.10.0.5, 752.0.10.0.7 and 752.0.11 to 752.0.13.1.1, as is represented by the proportion described in the second paragraph of section 26; and

(b) such portion of the amounts determined under sections 752.0.10.1 to 752.0.10.26, 752.0.14, 752.0.18.3, 752.0.18.8, 752.0.18.10 and 752.0.18.15, as is represented by the proportion described in the second paragraph of section 26.

Special rule.

For the purposes of subparagraph *a* of the second paragraph, the taxable income earned in Canada by an individual for a taxation year is determined as if section 1090 were read for the year without reference to its second, third and fourth paragraphs and as if subparagraph *a* of the first paragraph of that section were replaced, for the year, by the following subparagraph:

“(a) the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties;”.

History: 1989, c. 5, s. 104; 1990, c. 7, s. 66; 1993, c. 19, s. 58; 1993, c. 64, s. 79; 1997, c. 14, s. 121; 1997, c. 85, s. 141; 2001, c. 51, s. 69; 2001, c. 53, s. 123; 2003, c. 9, s. 95; 2005, c. 1, s. 177; 2005, c. 38, s. 158; 2012, c. 8, s. 127; 2015, c. 24, s. 107; 2015, c. 36, s. 47.

Corresponding Federal Provision: 118.94.

CHAPTER I.0.10**SEPARATE RETURNS OF INCOME****Separate fiscal return.**

752.0.26. If a separate fiscal return in respect of an individual is filed under any of sections 429, 681 and 1003 for a particular period and another fiscal return in respect of the same individual is filed under this Part for a period ending in the calendar year in which the particular period ends, for the purpose of computing the tax payable under this Part by the individual in such fiscal returns, the aggregate of the deductions claimed in all such returns under sections 752.0.7.1 to 752.0.18.15 must not exceed the aggregate of the deductions that could be claimed under

those sections for the year in respect of the individual if no separate fiscal returns were filed under sections 429, 681 and 1003.

History: 1989, c. 5, s. 104; 1993, c. 64, s. 80; 1997, c. 14, s. 290; 1997, c. 85, s. 142; 2001, c. 53, s. 124; 2005, c. 1, s. 178; 2009, c. 5, s. 296.

Corresponding Federal Provision: 118.93.

CHAPTER I.0.11**INDIVIDUALS IN BANKRUPTCY****Individuals in bankruptcy.**

752.0.27. Where an individual becomes a bankrupt in a calendar year, the following rules apply for the purpose of determining the amounts deductible under sections 752.0.0.1 to 752.0.7, 752.0.10.0.3, 752.0.10.0.5, 752.0.10.0.7 and 752.0.14 to 752.0.18 in computing the individual's tax payable under this Part for each of the individual's taxation years referred to in section 779 that end in the calendar year:

(a) in the case of an amount deductible for such a taxation year under sections 752.0.1 to 752.0.7, the individual shall deduct only the portion of that amount otherwise determined that is equal to the proportion that the number of days in that taxation year is of the number of days in the calendar year;

(b) in the case of an amount that is deductible for such a taxation year under section 752.0.0.1 or 752.0.14, the amount is to be computed as if the particular amount in dollars that is referred to in that section and that would otherwise be applicable for such a taxation year, with reference to section 750.2, was replaced by the proportion of that particular amount that the number of days in that taxation year is of the number of days in the calendar year;

(b.0.1) in the case of an amount that is deductible for such a taxation year under section 752.0.10.0.3, the amount is to be computed as if

i. the amounts of \$11,000 and \$10,000, wherever they are mentioned in the third paragraph of section 752.0.10.0.3, were replaced, respectively, by the proportion of \$11,000 and \$10,000 that the number of days in that taxation year is of the number of days in the calendar year,

ii. the amount of \$5,000, wherever it is mentioned in section 752.0.10.0.3, were replaced, for the taxation year that is deemed to begin on the date of the bankruptcy, by an amount equal to the amount by which \$5,000 exceeds the individual's eligible work income, within the meaning of section 752.0.10.0.2, which is determined for the taxation year that is deemed to end the day before the bankruptcy and which is attributable to a period in that latter year when the individual is 60 years of age or over,

iii. the particular amount of the reduction threshold, mentioned in subparagraph *c* of the second paragraph of section 752.0.10.0.3, that would otherwise be applicable for

such a taxation year, were replaced by the proportion of that particular amount that the number of days in that taxation year is of the number of days in the calendar year, and

iv. the amount of \$4,000, mentioned in the fourth paragraph of section 752.0.10.0.3, were replaced by the proportion of \$4,000 that the number of days in that taxation year is of the number of days in the calendar year; and

(b.1) *(subparagraph repealed)*;

(c) the amount deductible by the individual in respect of all of those taxation years, under any of those sections, shall not exceed the amount that would have been deductible under that section had the individual not become a bankrupt during the calendar year.

Dependant who reaches 18 years of age.

For the purposes of subparagraph *a* of the first paragraph in respect of each of the taxation years referred to in section 779 that end in the calendar year in which an individual becomes a bankrupt, where the individual includes, in computing the aggregate referred to in section 752.0.1, an amount under paragraph *f* of section 752.0.1 in respect of a person who reaches 18 years of age in the calendar year and the person is under 18 years of age at the end of the taxation year that is deemed to end the day before the bankruptcy, the following rules apply:

(a) the number of days in the taxation year that is deemed to end the day before the bankruptcy is deemed to be equal to zero; and

(b) the number of days in the taxation year that is deemed to begin on the date of the bankruptcy is deemed to be equal to the number of days in the calendar year.

Individual reaching the age of eligibility for the tax credit for career extension.

For the purposes of subparagraphs *i*, *iii* and *iv* of subparagraph *b.0.1* of the first paragraph in respect of each of the taxation years referred to in section 779 that end in the calendar year in which an individual becomes a bankrupt, in computing the proportion described in those subparagraphs, no account is to be taken of the days in that taxation year and that calendar year on which the individual is not at least 60 years of age.

History: 1993, c. 64, s. 81; 1996, c. 39, s. 206; 1997, c. 14, s. 122; 1997, c. 85, s. 143; 2003, c. 9, s. 96; 2005, c. 1, s. 179; 2005, c. 38, s. 159; 2009, c. 5, s. 297; 2011, c. 34, s. 38; 2012, c. 8, s. 128; 2015, c. 24, s. 108; 2015, c. 36, s. 48; 2017, c. 29, s. 153; 2019, c. 14, s. 234.

Corresponding Federal Provision: 118.95.

Rules applicable to bankrupt individual.

752.0.27.1. For the purposes of sections 752.0.0.4 to 752.0.0.6, if an individual becomes a bankrupt in a calendar

year and section 752.0.0.3 applies in respect of the individual for each of the individual's taxation years referred to in section 779 that end in the calendar year, there shall be taken into account, as a covered benefit attributable to any of those taxation years, only an amount that is wholly attributable to that taxation year.

History: 2005, c. 38, s. 160; 2009, c. 5, s. 298.

CHAPTER I.1

(Repealed).

DIVISION I

(Repealed).

752.1. *(Repealed)*.

History: 1984, c. 15, s. 175; 1986, c. 15, s. 115; 1986, c. 72, s. 11; 1989, c. 5, s. 105; 2001, c. 53, s. 125.

DIVISION II

(Repealed).

752.2. *(Repealed)*.

History: 1984, c. 15, s. 175; 1985, c. 25, s. 127; 1986, c. 15, s. 116; 1986, c. 72, s. 12; 1988, c. 4, s. 61; 1989, c. 5, s. 106; 1995, c. 63, s. 61; 1997, c. 31, s. 80; 2001, c. 53, s. 125.

DIVISION III

(Repealed).

752.3. *(Repealed)*.

History: 1984, c. 15, s. 175; 2001, c. 53, s. 125.

752.4. *(Repealed)*.

History: 1984, c. 15, s. 175; 2001, c. 53, s. 125.

752.5. *(Repealed)*.

History: 1984, c. 15, s. 175; 1997, c. 31, s. 81; 2000, c. 39, s. 67; 2001, c. 53, s. 125.

CHAPTER I.2

(Repealed).

DIVISION I

(Repealed).

752.6. *(Repealed)*.

History: 1986, c. 15, s. 117; 1986, c. 103, s. 9; 1988, c. 4, s. 62; 1989, c. 5, s. 107.

752.7. *(Repealed)*.

History: 1986, c. 15, s. 117; 1989, c. 5, s. 107.

752.8. *(Repealed)*.

History: 1986, c. 15, s. 117; 1986, c. 103, s. 10; 1989, c. 5, s. 107.

752.9. *(Repealed).*

History: 1986, c. 15, s. 117; 1986, c. 103, s. 10; 1989, c. 5, s. 107.

752.10. *(Repealed).*

History: 1986, c. 15, s. 117; 1986, c. 103, s. 10; 1989, c. 5, s. 107.

DIVISION II

(Repealed).

752.11. *(Repealed).*

History: 1986, c. 15, s. 117; 1989, c. 5, s. 107.

CHAPTER I.3**ALTERNATIVE MINIMUM TAX CARRY-OVER****Maximum tax carry-over.**

752.12. An individual may deduct from the amount that, but for this section and sections 752.14 and 766.3.4, would be the individual's tax otherwise payable under this Part for a particular taxation year such amount as the individual may claim not exceeding the lesser of

(a) the portion of the aggregate of his additional taxes determined under section 752.14 for the 7 taxation years immediately preceding the particular year that was not deducted in computing his tax otherwise payable under this Part for a taxation year preceding the particular year, and

(b) the amount by which the amount that, but for this section and sections 752.14 and 766.3.4, would be the individual's tax otherwise payable under this Part for the particular year, if such tax were determined under this Book without taking account of sections 772.2 to 772.13.3, 776, 776.1.1 to 776.1.5 and 776.1.5.0.11 to 776.1.5.0.15.5, exceeds the amount of the minimum tax applicable to that individual for the particular year as determined under section 776.46.

History: 1988, c. 4, s. 63; 1989, c. 5, s. 108; 1990, c. 59, s. 292; 1992, c. 1, s. 57; 1995, c. 63, s. 62; 1997, c. 14, s. 123; 2001, c. 53, s. 126; 2002, c. 9, s. 18; 2010, c. 25, s. 74; 2012, c. 8, s. 129; 2015, c. 21, s. 303; 2019, c. 14, s. 235.

Interpretation Bulletins: IMP. 752.12-1/R1.

Corresponding Federal Provision: 120.2(1).

752.13. *(Repealed).*

History: 1988, c. 4, s. 63; 1989, c. 5, s. 109.

Additional tax determined.

752.14. For the purposes of section 752.12, additional tax of an individual for a taxation year is the amount by which the individual's minimum tax applicable for the year as determined under section 776.46 exceeds the amount that would be the individual's tax otherwise payable under this Part for the year if such amount were determined under this

Book without reference to sections 772.2 to 772.13.3, 776, 776.1.1 to 776.1.5 and 776.1.5.0.11 to 776.1.5.0.15.5.

History: 1988, c. 4, s. 63; 1989, c. 5, s. 110; 1990, c. 59, s. 293; 1992, c. 1, s. 58; 1995, c. 63, s. 63; 1997, c. 85, s. 144; 1999, c. 83, s. 99; 2001, c. 53, s. 127; 2002, c. 9, s. 19; 2009, c. 5, s. 299; 2010, c. 25, s. 75; 2012, c. 8, s. 130; 2019, c. 14, s. 236.

Interpretation Bulletins: IMP. 752.12-1/R1.

Corresponding Federal Provision: 120.2(3).

Minimum tax applicable.

752.15. For the purposes of sections 752.12 and 752.14, the minimum tax applicable to an individual for a taxation year, as determined under section 776.46, must be computed, where applicable, by applying thereto the proportion referred to in the second paragraph of section 22, 25 or 26.

History: 1988, c. 4, s. 63; 1989, c. 5, s. 110.

752.15.1. *(Repealed).*

History: 1997, c. 85, s. 145; 1999, c. 83, s. 100.

Where s. 752.12 does not apply.

752.16. Section 752.12 does not apply in respect of a separate fiscal return of an individual filed under the second paragraph of section 429 or section 681, 784 or 1003.

History: 1988, c. 4, s. 63; 1989, c. 5, s. 110; 2001, c. 7, s. 106; 2001, c. 53, s. 128.

Corresponding Federal Provision: 120.2(4).

CHAPTER II

(Repealed).

DIVISION I

(Repealed).

753. *(Repealed).*

History: 1972, c. 23, s. 566; 1984, c. 15, s. 176.

754. *(Repealed).*

History: 1972, c. 23, s. 567; 1972, c. 26, s. 59; 1973, c. 17, s. 88; 1984, c. 15, s. 176.

755. *(Repealed).*

History: 1972, c. 23, s. 568; 1984, c. 15, s. 176.

756. *(Repealed).*

History: 1972, c. 23, s. 569; 1972, c. 26, s. 60; 1973, c. 17, s. 89; 1984, c. 15, s. 176.

757. *(Repealed).*

History: 1972, c. 23, s. 570; 1975, c. 22, s. 210; 1976, c. 17, s. 1; 1978, c. 26, s. 136; 1979, c. 38, s. 23; 1984, c. 15, s. 176.

DIVISION II*(Repealed).***758.** *(Repealed).*

History: 1972, c. 23, s. 571; 1993, c. 64, s. 82; 2001, c. 53, s. 129.

759. *(Repealed).*

History: 1972, c. 23, s. 572; 1985, c. 25, s. 128; 1986, c. 19, s. 163; 1989, c. 5, s. 111; 2001, c. 53, s. 129.

760. *(Repealed).*

History: 1972, c. 23, s. 573; 2001, c. 53, s. 129.

761. *(Repealed).*

History: 1972, c. 23, s. 574; 1973, c. 17, s. 90; 1995, c. 63, s. 261; 2001, c. 53, s. 129.

762. *(Repealed).*

History: 1972, c. 23, s. 575; 1984, c. 15, s. 177; 1989, c. 5, s. 112; 2001, c. 53, s. 129.

763. *(Repealed).*

History: 1972, c. 23, s. 576; 2001, c. 53, s. 129.

764. *(Repealed).*

History: 1972, c. 23, s. 577; 2001, c. 53, s. 129.

765. *(Repealed).*

History: 1972, c. 23, s. 578; 2001, c. 53, s. 129.

766. *(Repealed).*

History: 1972, c. 23, s. 579; 1985, c. 25, s. 129; 1997, c. 14, s. 124; 2001, c. 53, s. 129.

766.1. *(Repealed).*

History: 1985, c. 25, s. 129; 1986, c. 19, s. 164; 2001, c. 53, s. 129.

CHAPTER II.1**TAX ADJUSTMENT RELATING TO CERTAIN AMOUNTS****DIVISION I****RETROACTIVE PAYMENTS****Tax adjustment.**

766.2. An individual's tax otherwise payable for a particular taxation year is to be adjusted in accordance with the second paragraph if

(a) the individual is not required to include, by reason of the second paragraph of section 312.5, an amount in computing the individual's income for the particular taxation year;

(a.1) the individual is not required to include, by reason of the second paragraph of section 694.0.0.1, an amount in computing taxable income for the particular taxation year;

(b) the individual is required to include, by reason of section 694.0.1, an amount in computing the individual's taxable income for the particular taxation year; or

(c) the individual deducts, by reason of section 725.1.2, an amount in computing the individual's taxable income, or the individual's taxable income earned in Canada as determined under Part II, for the particular taxation year.

Terms of the tax adjustment.

The adjustment to which the first paragraph refers is made in the following manner:

(a) the amount of the adjustment, in relation to the particular taxation year, is equal to the aggregate of all amounts each of which is the amount of the tax adjustment relating to the averaging, determined in respect of the individual, that is attributable to a preceding taxation year that is an eligible taxation year of the individual, hereinafter called the "taxation year to which the averaging applies", to which an amount referred to in any of subparagraphs *a* to *c* of the first paragraph that the individual receives or pays in the particular taxation year relates, in whole or in part;

(b) if the amount of the adjustment, in relation to the particular taxation year, determined in accordance with subparagraph *a*, is greater than or equal to zero, that amount is an amount that the individual is required to add to the individual's tax otherwise payable under this Part for that particular year; and

(c) if the amount of the adjustment, in relation to the particular taxation year, determined in accordance with subparagraph *a*, is less than zero, that amount expressed as a positive number is an amount that the individual may deduct from the individual's tax otherwise payable under this Part for that particular year.

Amount of the tax adjustment.

The amount of the tax adjustment relating to the averaging, determined in respect of the individual, that is attributable to a taxation year to which the averaging applies, for the purpose of determining the amount of the adjustment in relation to the particular taxation year, is equal to the positive or negative amount determined by the formula

$$(A - B) + C + D - (E - F).$$

Interpretation.

In the formula in the third paragraph,

(a) A is the total of the tax that would have been payable by the individual, for the taxation year to which the averaging

applies, under this Part and, if the taxation year to which the averaging applies precedes the taxation year 1998, under Part I.1, as it read for that year, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for the taxation year to which the averaging applies;

(b) B is the total of the tax payable by the individual, for the taxation year to which the averaging applies, under this Part and, if the taxation year to which the averaging applies precedes the taxation year 1998, under Part I.1, as it read for that year;

(c) C is the aggregate of the amount by which the amount that a person, other than the individual, has deducted in computing the person's tax otherwise payable under section 752.0.15 for the taxation year to which the averaging applies, as it read before being repealed, in respect of that taxation year, exceeds the amount that the person could have deducted in computing the person's tax otherwise payable under section 752.0.15 for that year if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for the taxation year to which the averaging applies, and the following amount:

i. if the taxation year to which the averaging applies is subsequent to the taxation year 2002, but precedes the taxation year 2007, and, in the case of the taxation year 2003 or 2004, the rules set out in Book V.2.1, as it read for that year, did not apply to the individual's eligible spouse for the year, within the meaning of sections 776.41.1 to 776.41.4, the amount by which the amount that the spouse has deducted in computing the spouse's tax otherwise payable for that year under section 776.41.5, exceeds the amount that the spouse could have deducted in computing the spouse's tax otherwise payable for that year under section 776.41.5, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year,

ii. if the taxation year to which the averaging applies is the taxation year 2003 or 2004 and the rules set out in Book V.2.1, as it read for that year, did apply to the individual's eligible spouse for the year, within the meaning of sections 776.41.1 to 776.41.4, the amount by which the amount that the spouse has deducted in computing the spouse's tax otherwise payable for that year under section 776.78, as it read for that year, exceeds the amount that the spouse could have deducted in computing the spouse's tax otherwise payable for that year under

section 776.78, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year,

iii. if the taxation year to which the averaging applies precedes the taxation year 2003 and the rules set out in Book V.2.1, as it read for that year, did apply to the individual's spouse for the year, the amount by which the amount that the spouse has deducted in computing the spouse's tax otherwise payable for that year under section 776.78, as it read for that year, exceeds the amount that the spouse could have deducted in computing the spouse's tax otherwise payable for that year under section 776.78, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year,

iv. if the taxation year to which the averaging applies precedes the taxation year 2003 and subparagraph iii does not apply, the amount by which the amount that the individual's spouse has deducted in computing the spouse's tax otherwise payable for that year under section 752.0.19, as it read for that year, exceeds the amount that the spouse could have deducted in computing the spouse's tax otherwise payable for that year under section 752.0.19, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year; and

v. if the taxation year to which the averaging applies is subsequent to the taxation year 2006, the aggregate of

(1) the amount by which the amount that the individual's eligible spouse for the year, within the meaning of sections 776.41.1 to 776.41.4, has deducted in computing the spouse's tax otherwise payable for that year under section 776.41.5, exceeds the amount that the spouse could have deducted in computing the spouse's tax otherwise payable for that year under section 776.41.5, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year,

(2) the amount by which the amount that a person, other than the individual, has deducted in computing the person's tax otherwise payable under section 776.41.14 for the taxation year to which the averaging applies, exceeds the amount that the person could have deducted in computing the

person's tax otherwise payable for that year under section 776.41.14, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year, and

(3) the amount by which the amount that a person, other than the individual, has deducted in computing the person's tax otherwise payable under section 776.41.21 for the taxation year to which the averaging applies, exceeds the amount that the person could have deducted in computing the person's tax otherwise payable for that year under section 776.41.21, if the portion of each amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies had been included or deducted in computing the individual's taxable income for that year;

(d) D is the amount by which the amount that would be determined under subparagraph *a* for the taxation year to which the averaging applies, if the portion of each amount subject to an averaging mechanism, to which subparagraph *a* refers, that relates to the taxation year to which the averaging applies was determined without taking into account the portion of the amounts referred to in the first paragraph of section 1029.8.50 that relates to the taxation year to which the averaging applies in respect of which the individual is deemed to have paid an amount to the Minister under section 1029.8.50 for the particular taxation year, exceeds the amount determined under subparagraph *a* for the taxation year to which the averaging applies;

(e) E is the aggregate of all amounts each of which is the amount of the tax adjustment relating to the averaging, determined in respect of the individual, that may reasonably be attributed to the taxation year to which the averaging applies and that is determined for a taxation year preceding the particular taxation year; and

(f) F is the aggregate of all amounts each of which is an amount determined under subparagraph *d*, in respect of the taxation year to which the averaging applies, for a taxation year preceding the particular taxation year.

Special computation rules.

For the purpose of determining any amount under the third and fourth paragraphs, the following rules apply:

(a) the proportion referred to in the second paragraph of section 22 for any taxation year to which the averaging applies is deemed to be equal to 1;

(b) if the individual was resident in Canada but outside Québec on the last day of a taxation year to which the

averaging applies, the individual is deemed to have been resident in Québec on the last day of that year; and

(c) if the amount referred to in subparagraph *c* of the first paragraph includes the amount determined under the fourth paragraph of section 725.1.2, the latter amount is deemed to relate, in the same proportion, to each of the taxation years subsequent to the taxation year 1985 that precede the particular taxation year.

Rules applicable.

For the purpose of applying this Part to any taxation year,

(a) an amount that is not otherwise deducted in computing an individual's taxable income or tax payable under this Part for a taxation year to which the averaging applies, but that is deducted for the purpose of establishing the amount determined in respect of the individual under any of subparagraphs *a*, *c* and *d* of the fourth paragraph for that taxation year, is deemed, for the application of this Part to any taxation year, to have been deducted in computing the individual's taxable income or tax payable under this Part for the taxation year to which the averaging applies, including when establishing the amount determined in respect of the individual for another taxation year under any of subparagraphs *a*, *c* and *d* of the fourth paragraph or under subparagraph *a* or *d* of the second paragraph of section 766.3.2 or subparagraph *b* of the third paragraph of that section;

(b) an amount that is otherwise deducted in computing an individual's taxable income or tax payable under this Part for a taxation year that is subsequent to the taxation year to which the averaging applies may not be taken into account for the purpose of establishing the amount determined in respect of the individual under any of subparagraphs *a*, *c* and *d* of the fourth paragraph for the taxation year to which the averaging applies; and

(c) an amount that, under subparagraph *a* of the sixth paragraph of section 766.3.2, is deemed deducted in computing an individual's taxable income or tax payable under this Part for a taxation year to which the averaging applies, because it is deducted in that computation for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph of section 766.3.2 or subparagraph *b* of the third paragraph of that section for the taxation year to which the averaging applies, may not be taken into account for the purpose of establishing the amount determined in respect of the individual under any of subparagraphs *a*, *c* and *d* of the fourth paragraph for that taxation year.

“amount subject to an averaging mechanism”.

For the purposes of the fourth paragraph, “amount subject to an averaging mechanism”, in relation to an individual for a taxation year, means an amount that is received or paid by the individual in the year and that is referred to in any of

subparagraphs *a* to *c* of the first paragraph or an amount paid by the individual in the year and in respect of which the first paragraph of section 1029.8.50 applies, except, in respect of a taxation year to which the averaging applies and that ends before 1 January 2003, such an amount received or paid in a taxation year that ends before 1 January 2004.

History: 1993, c. 16, s. 286; 1995, c. 1, s. 4 [amended by 1997, c. 14, s. 371]; 1997, c. 14, s. 125; 1997, c. 85, s. 146; 2002, c. 40, s. 74; 2005, c. 38, s. 162; 2009, c. 5, s. 300; 2009, c. 15, s. 147; 2011, c. 6, s. 160; 2015, c. 21, s. 305.

Amount to be added.

766.2.1. If section 766.2 applies in respect of an amount referred to in any of subparagraphs *a*, *a.1* and *c* of the first paragraph of section 766.2 that an individual receives in a particular taxation year and that relates, in whole or in part, to an individual's eligible taxation year, in this section referred to as the "affected taxation year", that is before the taxation year that precedes the particular taxation year, the individual shall add to the individual's tax otherwise payable under this Part for the particular taxation year, an amount equal to the aggregate of all amounts each of which is equal to the amount of interest that would be computed, in respect of an affected taxation year, in accordance with the second paragraph of section 28 of the Tax Administration Act (chapter A-6.002) for the period beginning on 1 May of the year following the affected taxation year and ending before the beginning of the particular taxation year, on the portion of the amount of the tax adjustment relating to the averaging that is attributable to the affected taxation year, determined in accordance with the third paragraph of section 766.2 in respect of the individual, that exceeds the amount determined under subparagraph *d* of the fourth paragraph of section 766.2, in respect of the individual and in relation to the affected taxation year, if that excess amount were a refund due by the Minister under a fiscal law.

Waiver.

The Minister may waive, in whole or in part, the amount that the individual is required to add, under the first paragraph, to the individual's tax otherwise payable under this Part for the particular taxation year—to the extent that the amount is attributable to a particular amount described in the second paragraph of section 725.1.2—where the number of years to which the particular amount relates results from exceptional circumstances beyond the individual's control.

No appeal from Minister's decision.

The Minister's decision under the second paragraph may not be the subject of an objection, contestation or appeal.

History: 2005, c. 38, s. 163; 2009, c. 5, s. 301; 2010, c. 31, s. 175; 2017, c. 1, s. 201; 2020, c. 12, s. 124.

Eligible taxation year.

766.2.2. For the purposes of sections 766.2 and 766.2.1, "eligible taxation year" of an individual means a taxation year throughout which the individual was resident in Canada, other than a taxation year that ends in a calendar year in which the individual became a bankrupt or a taxation year included in the averaging period determined in respect of the individual for the purposes of Division II of Chapter II, as it read before being repealed.

History: 2005, c. 38, s. 163; 2010, c. 25, s. 76.

Sections applicable.

766.3. Sections 766.2 and 766.2.1 apply, for a taxation year, to an individual to whom Book II applies for that year.

Restriction.

In addition, an individual to whom the second paragraph of any of sections 22, 25 and 26 applies may add or deduct in computing the individual's tax otherwise payable for a taxation year under section 766.2 or 766.2.1 only the portion of the amount determined under section 766.2 or 766.2.1 that is the proportion referred to in the second paragraph of section 22, 25 or 26 that is applicable in respect of the individual for the year.

History: 1995, c. 1, s. 85 [amended by 1997, c. 14, s. 372]; 2005, c. 38, s. 164.

DIVISION II RETROACTIVELY DETERMINED COVERED BENEFIT

Definition of "covered benefit attributable to a preceding taxation year".

766.3.1. In this division, "covered benefit attributable to a preceding taxation year" means an amount determined in a particular taxation year that is attributable to a taxation year preceding the particular year but subsequent to the taxation year 2003, and that is

(a) if the preceding taxation year is the year 2004, an amount referred to in any of subparagraphs *a* to *c* of the first paragraph of section 766.8, other than an amount that replaces income described in paragraph *e* of section 725; and

(b) in any other case, an amount that is an income replacement indemnity or a compensation for the loss of financial support, determined under a public compensation plan and established on the basis of net income following an accident, employment injury, bodily injury or death or in order to prevent bodily injury, other than

i. an amount that is the net salary or wages paid by an employer, in accordance with the Act respecting industrial accidents and occupational diseases (chapter A-3.001), for each day or part of a day when a worker must be absent from work to receive care or undergo medical examinations in

connection with the worker's injury, or to take part in a personal rehabilitation program, or

ii. an amount that replaces income described in paragraph *e* of section 725.

History: 2015, c. 21, s. 306.

Amount to be added.

766.3.2. If an individual is resident in Québec at the end of a particular taxation year and is the beneficiary of a covered benefit attributable to a preceding taxation year, the individual is required to add to the individual's tax otherwise payable, for the particular year, the amount determined by the formula

$$A - B + C + D + E - F.$$

Formula elements.

In the formula in the first paragraph,

(a) A is the tax that would have been payable by the individual under this Part for the preceding year if the covered benefit attributable to the preceding year had been determined in that preceding year;

(b) B is the tax payable by the individual under this Part for that preceding year;

(c) C is the amount determined without reference to section 7.5 by the formula

$$G - H;$$

(d) D is the aggregate of

i. if the preceding year is subsequent to 2009, the amount by which the amount that a person, other than the individual, deducted under section 776.41.14 in computing the person's tax otherwise payable for that preceding year exceeds the amount that the person could have deducted under section 776.41.14 in computing the person's tax otherwise payable for that preceding year, if the covered benefit attributable to the preceding year had been determined in that year, and

ii. the amount by which the amount that a person, other than the individual, deducted under section 776.41.21 in computing the person's tax otherwise payable for that preceding year exceeds the amount that the person could have deducted under section 776.41.21 in computing the person's tax otherwise payable for that preceding year, if the covered benefit attributable to the preceding year had been determined in that year;

(e) E is the aggregate of all amounts each of which is an amount deemed to have been paid to the Minister under section 1029.8.50.3 on account of the individual's tax payable under this Part for a preceding taxation year because

of the application of this section in respect of a covered benefit attributable to the preceding year; and

(f) F is the aggregate of all amounts each of which is an amount that the individual is required to add to the individual's tax otherwise payable under this Part for a preceding taxation year because of the application of this section in respect of a covered benefit attributable to the preceding year.

Elements of the formula given in the second paragraph.

In the formula in subparagraph *c* of the second paragraph:

(a) G is the amount deducted by the individual's eligible spouse for the preceding taxation year under section 776.78, as it read before being repealed, or section 776.41.5 in computing the tax otherwise payable for that preceding year; and

(b) H is the amount that could have been deducted by the individual's eligible spouse for the preceding taxation year under section 776.78, as it read before being repealed, or section 776.41.5 in computing the tax otherwise payable for that preceding year, computed without reference to section 776.41.5, if the covered benefit attributable to the preceding year had been determined in that year, without however exceeding the tax otherwise payable for that preceding year.

Eligible spouse.

In subparagraphs *c* and *d* of the second paragraph, the individual's eligible spouse for the preceding taxation year means a person who would be the individual's eligible spouse for that year, within the meaning of sections 776.41.1 to 776.41.4, if the portion of section 776.41.1 before paragraph *a* were read as if "for a taxation year" were replaced by "for a preceding taxation year".

Presumption.

For the purposes of this section, if an individual dies or ceases to be resident in Canada in the particular taxation year, the last day of that taxation year is the day on which the individual died or the last day on which the individual was resident in Canada.

Rules applicable.

For the purpose of applying this Part to any taxation year,

(a) an amount that is not otherwise deducted in computing an individual's taxable income or tax payable under this Part for a taxation year (in this subparagraph referred to as the "preceding year"), but that is deducted for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph or subparagraph *b* of the third paragraph for the preceding year, is deemed, for the application of this Part to any taxation year, to have been deducted in computing the individual's taxable income or tax payable, as the case may

be, under this Part for the preceding year, including when establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph or subparagraph *b* of the third paragraph or under any of subparagraphs *a*, *c* and *d* of the fourth paragraph of section 766.2 for another taxation year;

(*b*) an amount that is otherwise deducted in computing an individual's taxable income or tax payable under this Part for a taxation year subsequent to a particular taxation year may not be taken into account for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph or subparagraph *b* of the third paragraph for the particular taxation year;

(*c*) an amount that, under subparagraph *a* of the sixth paragraph of section 766.2, is deemed to be deducted in computing an individual's taxable income or tax payable under this Part for a particular taxation year, because it is deducted in that computation for the purpose of establishing the amount determined in respect of the individual under any of subparagraphs *a*, *c* and *d* of the fourth paragraph of section 766.2 for the particular year, may not be taken into account for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph or subparagraph *b* of the third paragraph for the particular year; and

(*d*) an amount that is otherwise deducted in computing an individual's taxable income or tax payable under this Part for a particular taxation year, but that is not deducted for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph or subparagraph *b* of the third paragraph for the particular year, is deemed, for the application of this Part to any other taxation year, not to have been deducted in computing the individual's taxable income or tax payable, as the case may be, under this Part for the particular year.

Exception.

This section does not apply in respect of an individual's separate fiscal return filed under the second paragraph of section 429 or section 681 or 1003.

History: 2015, c. 21, s. 306.

**DIVISION III
TAX ON SPLIT INCOME**

Definitions:

766.3.3. In this division,

“arm's length capital”;

“arm's length capital”, of a specified individual, means property of the individual if the property, or property for which it is a substitute, was not

(*a*) acquired as income from, or a taxable capital gain or profit from the disposition of, another property that was derived directly or indirectly from a related business in respect of the specified individual;

(*b*) borrowed by the specified individual under a loan or other indebtedness; or

(*c*) transferred, directly or indirectly by any means whatever, to the specified individual from a person who was related to the specified individual (other than as a consequence of the death of the person);

“excluded amount”;

“excluded amount”, in respect of an individual for a taxation year, means an amount that is the individual's income for the year from, or the individual's taxable capital gain or profit for the year from the disposition of, a property to the extent that the amount

(*a*) where the individual has not attained the age of 24 years before the year, is from a property that was acquired by, or for the benefit of, the individual as a consequence of the death of a person who is

i. the individual's father or mother, or

ii. any other person, if the individual is enrolled as a full-time student during the year at a prescribed educational institution for the purposes of paragraph *d* of the definition of “trust” in section 890.15, or an individual in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the year;

(*b*) is from a property acquired by the individual under a transfer described in section 1034.0.1;

(*c*) is a taxable capital gain that arises because of section 436;

(*d*) is a taxable capital gain for the year from the disposition by the individual of property that is, at the time of the disposition, qualified farm or fishing property, within the meaning of section 726.6, or qualified small business corporation shares, within the meaning of section 726.6.1, unless the amount would be deemed to be a dividend under section 766.3.5 or 766.3.6 if this definition were read without reference to this paragraph;

(*e*) where the individual has attained the age of 17 years before the year, is

i. not derived directly or indirectly from a related business in respect of the individual for the year, or

ii. derived directly or indirectly from an excluded business of the individual for the year;

(*f*) where the individual has attained the age of 17 years but not the age of 24 years before the year, is

i. a safe harbour capital return of the individual, or

ii. a reasonable return in respect of the individual, having regard only to the contributions of arm's length capital by the individual; or

(g) where the individual has attained the age of 24 years before the year, is

i. income from, or a taxable capital gain from the disposition of, excluded shares of the individual, or

ii. a reasonable return in respect of the individual;

“excluded business”;

“excluded business”, of a specified individual for a taxation year, means a business if the specified individual is actively engaged on a regular, continuous and substantial basis in the activities of the business in either

(a) the taxation year, except in respect of an amount described in paragraph *e* of the definition of “split income”; or

(b) any five prior taxation years of the specified individual;

“excluded shares”;

“excluded shares”, of a specified individual at a particular time, means shares of the capital stock of a corporation owned by the specified individual if the following conditions are met:

(a) less than 90% of the business income of the corporation for the last taxation year of the corporation that ends at or before the particular time (or, if the corporation has no such taxation year, for the taxation year of the corporation that includes the particular time) was from the provision of services;

(b) the corporation is not a professional corporation;

(c) immediately before the particular time, the specified individual owns shares of the capital stock of the corporation that

i. give the holders thereof 10% or more of the votes that could be cast at the annual meeting of the shareholders of the corporation, and

ii. have a fair market value of 10% or more of the fair market value of all of the issued and outstanding shares of the capital stock of the corporation; and

(d) all or substantially all of the income of the corporation for the relevant taxation year in paragraph *a* is income that is not derived, directly or indirectly, from one or more related businesses in respect of the specified individual other than a business of the corporation;

“reasonable return”;

“reasonable return”, in respect of a specified individual for a taxation year, means a particular amount derived directly or indirectly from a related business in respect of the specified individual that

(a) would be an amount described in the definition of “split income” in respect of the specified individual for the year if the definition of “excluded amount” were read without reference to subparagraph ii of paragraphs *f* and *g*; and

(b) is reasonable having regard to the following factors relating to the relative contributions of the specified individual, and each source individual in respect of the specified individual, in respect of the related business:

i. the work they performed in support of the related business,

ii. the property they contributed, directly or indirectly, in support of the related business,

iii. the risks they assumed in respect of the related business,

iv. the total of all amounts that were paid or that became payable, directly or indirectly, by any person or partnership to, or for the benefit of, them in respect of the related business, and

v. such other factors as may be relevant;

“related business”;

“related business”, in respect of a specified individual for a taxation year, means

(a) a business carried on by

i. a source individual in respect of the specified individual at any time in the year, or

ii. a corporation, partnership or trust if a source individual in respect of the specified individual at any time in the year is actively engaged on a regular basis in the activities of the corporation, partnership or trust, as the case may be, related to earning income from the business;

(b) a business of a particular partnership, if a source individual in respect of the specified individual at any time in the year has an interest—including directly or indirectly—in the particular partnership; or

(c) a business of a corporation, if the following conditions are met at any time in the year:

i. a source individual in respect of the specified individual owns

(1) shares of the capital stock of the corporation, or

(2) property that derives, directly or indirectly, all or part of its fair market value from shares of the capital stock of the corporation, and

ii. the amount that is 10% of the total fair market value of all of the issued and outstanding shares of the capital stock of the corporation is equal to or less than the aggregate of

(1) the total fair market value of shares described in subparagraph 1 of subparagraph i, and

(2) the portion of the total fair market value of property described in subparagraph 2 of subparagraph i that is derived from shares of the capital stock of the corporation;

safe harbour capital return;

“safe harbour capital return”, of a specified individual for a taxation year, means an amount that does not exceed the product obtained by multiplying the amount that is the highest of the rates that are determined in accordance with paragraph *c* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in effect for a quarter in the year by the aggregate of all amounts each of which is determined by the formula

$$A \times B/C;$$

“source individual”;

“source individual”, in respect of a specified individual for a taxation year, means an individual (other than a trust) who, at any time in the year, is resident in Canada and is related to the specified individual;

“specified individual”;

“specified individual”, for a taxation year, means an individual (other than a trust) who meets the following conditions:

(a) the individual is resident in Canada at the end of the year or, if the individual dies in the year, is resident in Canada immediately before the death; and

(b) if the individual has not attained the age of 17 years before the year, the individual’s father or mother is resident in Canada in the year;

“split income”.

“split income” of a specified individual for a taxation year means the aggregate of all amounts, other than excluded amounts, each of which is

(a) an amount required to be included in computing the individual’s income for the year in respect of taxable dividends received by the individual in respect of shares of the capital stock of a corporation, other than shares listed on a designated stock exchange or shares of a mutual fund corporation, or because of the application of Division IV of Chapter II of Title III of Book III in respect of the ownership by any person of shares of the capital stock of a corporation, other than shares listed on such a stock exchange;

(b) a portion of an amount included because of the application of paragraph *f* of section 600 in computing the individual’s income for the year, to the extent that the portion is not included in an amount described in paragraph *a* and can reasonably be considered to be income derived directly or indirectly from

i. one or more related businesses in respect of the individual for the year, or

ii. the rental of property by a partnership or trust, if a person who is related to the individual at any time in the year is actively engaged on a regular basis in the activities of the partnership or trust related to the rental of property or, in the case of a partnership, has an interest in the partnership directly or indirectly through one or more other partnerships;

(c) a portion of an amount included because of the application of section 662 or 663 in respect of a trust (other than a mutual fund trust or a trust referred to in section 851.25) in computing the individual’s income for the year, to the extent that the portion is not included in an amount described in paragraph *a* and can reasonably be considered

i. to be in respect of taxable dividends received in respect of shares of the capital stock of a corporation (other than shares listed on a designated stock exchange or shares of a mutual fund corporation),

ii. to arise because of the application of Division IV of Chapter II of Title III of Book III in respect of the ownership by any person of shares of the capital stock of a corporation (other than shares listed on a designated stock exchange),

iii. to be income derived directly or indirectly from one or more related businesses in respect of the individual for the year, or

iv. to be income derived from the rental of property by a partnership or trust, if a person who is related to the individual at any time in the year is actively engaged on a regular basis in the activities of the partnership or trust related to the rental of property;

(d) an amount included in computing the individual’s income for the year to the extent that the amount is in respect of a debt obligation that

i. is of a corporation (other than a mutual fund corporation or a corporation a class of shares of the capital stock of which is listed on a designated stock exchange), partnership or trust (other than a mutual fund trust), and

ii. is not described in paragraph *a* of the definition of “fully exempt interest” in subsection 3 of section 212 of the Income Tax Act, listed or traded on a public market, or a deposit, standing to the credit of the individual,

(1) within the meaning assigned by the Canada Deposit Insurance Corporation Act (Revised Statutes of Canada, 1985, chapter 3), or

(2) with a credit union or a branch in Canada of a bank; or

(e) an amount in respect of a property, to the extent that

i. the amount

(1) is a taxable capital gain, or a profit, of the individual for the year from the disposition after 31 December 2017 of the property, or

(2) is included under section 662 or 663 in computing the individual's income for the year and can reasonably be considered to be attributable to a taxable capital gain, or a profit, of any person or partnership for the year from the disposition after 31 December 2017 of the property, and

ii. the property is

(1) a share of the capital stock of a corporation (other than a share of a class listed on a designated stock exchange or a share of the capital stock of a mutual fund corporation), or

(2) a property in respect of which the following conditions are met:

(a) the property is an interest in a partnership, an interest as a beneficiary under a trust (other than a mutual fund trust or a trust described in section 851.25, or a debt obligation (other than a debt obligation described in subparagraph ii of paragraph d), and

(b) either an amount is included, in respect of the property, in the individual's split income for the year or an earlier taxation year, or all or any part of the fair market value of the property, immediately before the disposition referred to in subparagraph 1 or 2 of subparagraph i, is derived, directly or indirectly, from a share described in subparagraph 1.

In the formula in the definition of "safe harbour capital return" in the first paragraph,

(a) A is the fair market value of property contributed by the specified individual in support of a related business at the time it was contributed;

(b) B is the number of days in the year that the property (or property substituted for it) is used in support of the related business and has not directly or indirectly, in any manner whatever, been returned to the specified individual; and

(c) C is the number of days in the year.

History: 2015, c. 21, s. 306; 2017, c. 29, s. 154; 2020, c. 16, s. 109; 2020, c. 16, s. 109; 2020, c. 16, s. 109.

Corresponding Federal Provision: 120.4(1).

Interpretation.

766.3.3.1. For the purpose of applying this division in respect of a specified individual for a taxation year, the following rules apply:

(a) an individual is deemed to be actively engaged on a regular, continuous and substantial basis in the activities of a business in a taxation year if the individual works for the

business at least 20 hours per week during the portion of the year in which the business operates;

(b) where an amount would, but for this paragraph, be split income of a specified individual who has attained the age of 17 years before the taxation year in respect of a property, and that property was acquired by, or for the benefit of, the specified individual as a consequence of the death of another person, the following rules apply:

i. for the purpose of applying paragraph b of the definition of "reasonable return" in the first paragraph of section 766.3.3 and to the extent that the particular amount referred to in that paragraph is in respect of the property, the factors referred to in that paragraph in respect of the other person are to be included for the purpose of determining a reasonable return in respect of the individual,

ii. for the purposes of this subparagraph and the definition of "excluded business" in the first paragraph of section 766.3.3, where the other person was actively engaged on a regular, continuous and substantial basis in the activities of a business throughout five previous taxation years, the individual is deemed to have been actively engaged on a regular, continuous and substantial basis in the activities of the business throughout those five years, and

iii. for the purpose of applying paragraph g of the definition of "excluded amount" in the first paragraph of section 766.3.3 in respect of that property, the individual is deemed to have attained the age of 24 years before the year if the other person had attained the age of 24 years before the year;

(c) an amount that is a specified individual's income for a taxation year from, or the specified individual's taxable capital gain or profit for the year from the disposition of, a property is deemed to be an excluded amount in respect of the specified individual for the year if

i. the following conditions are met:

(1) the amount would be an excluded amount in respect of the individual's spouse for the year, if the amount were included in computing the spouse's income for the year, and

(2) the individual's spouse has attained the age of 64 years before the year, or

ii. the amount would have been an excluded amount in respect of an individual who was, immediately before the individual's death, the specified individual's spouse, if the amount were included in computing the spouse's income for the spouse's last taxation year (determined as if this division applies in respect of that year);

(d) an amount derived directly or indirectly from a business includes

i. an amount that is derived from the provision of property or services to, or in support of, the business, or arises in connection with the ownership or disposition of an interest in the person or partnership carrying on the business, and

ii. an amount derived from an amount described in this paragraph; and

(e) an individual is deemed not to be related to the individual's spouse at any time in a year if, at the end of the year, the individual is living separate and apart from the individual's spouse because of a breakdown of their marriage.

History: 2020, c. 16, s. 110.

Tax on split income.

766.3.4. A specified individual shall add to the specified individual's tax otherwise payable for a taxation year under this Part an amount equal to 25.75% of the specified individual's split income for the year.

Special rule.

In addition, the proportion referred to for the year in the second paragraph of section 22 or 25, as the case may be, in respect of the individual applies to the amount otherwise determined for the year in respect of the individual under the first paragraph.

History: 2015, c. 21, s. 306.

Corresponding Federal Provision: 120.4(2).

Taxable capital gain.

766.3.5. If a specified individual who has not attained the age of 17 years before a taxation year would have for the year, but for this division, a taxable capital gain (other than an excluded amount) from a disposition of shares (other than shares listed on a designated stock exchange or shares of a mutual fund corporation) that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, the amount of the taxable capital gain is deemed not to be a taxable capital gain and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend that is not an eligible dividend.

History: 2015, c. 21, s. 306; 2020, c. 16, s. 111.

Corresponding Federal Provision: 120.4(4).

Taxable capital gain of a trust.

766.3.6. If a specified individual who has not attained the age of 17 years before a taxation year would be, but for this division, required under section 662 or 663 to include an amount in computing the specified individual's income for the year, to the extent that the amount can reasonably be considered to be attributable to a taxable capital gain (other than an excluded amount) of a trust from a disposition of shares (other than shares listed on a designated stock

exchange or shares of a mutual fund corporation) that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, sections 662 and 663 do not apply in respect of the amount and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend that is not an eligible dividend.

History: 2015, c. 21, s. 306; 2020, c. 16, s. 112.

Corresponding Federal Provision: 120.4(5).

DIVISION IV MINIMUM TAX

Minimum amount determined.

766.3.7. Despite any other provision of this Act, the tax otherwise payable under this Part, for a particular taxation year, by an individual in respect of the year may not be less than the amount determined by the formula

$A + B + C.$

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is an amount added in computing the individual's tax otherwise payable for the particular year under sections 766.2 and 766.2.1;

(b) B is the aggregate of all amounts each of which is an amount added in computing the individual's tax otherwise payable for the particular year under section 766.3.2; and

(c) C is the amount by which the amount added in computing the individual's tax otherwise payable for the year under section 766.3.4 exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount that is deductible under section 767 or sections 772.2 to 772.13 in computing the individual's tax payable for the year and can reasonably be considered to be in respect of an amount included in computing the individual's split income, within the meaning of section 766.3.3, for the year, and

ii. the amount deducted under section 752.0.14 in computing the individual's tax payable for the year.

History: 2015, c. 21, s. 306; 2020, c. 16, s. 113.

Corresponding Federal Provision: 120.4(3).

CHAPTER II.2 (Repealed).

766.4. (Repealed).

History: 1995, c. 1, s. 85 [amended by 1997, c. 14, s. 372]; 1997, c. 85, s. 147; 2005, c. 38, s. 165.

CHAPTER II.3*(Repealed).***766.5.** *(Repealed).*

History: 2001, c. 53, s. 130; 2005, c. 38, s. 166; 2010, c. 5, s. 64; 2011, c. 1, s. 40; 2012, c. 8, s. 131; 2015, c. 21, s. 307.

766.6. *(Repealed).*

History: 2001, c. 53, s. 130; 2015, c. 21, s. 307.

766.7. *(Repealed).*

History: 2001, c. 53, s. 130; 2005, c. 1, s. 180; 2015, c. 21, s. 307.

766.7.1. *(Repealed).*

History: 2012, c. 8, s. 132; 2015, c. 21, s. 307.

766.7.2. *(Repealed).*

History: 2012, c. 8, s. 132; 2015, c. 21, s. 307.

CHAPTER II.4**TAX ADJUSTMENT RELATING TO A BENEFIT ATTRIBUTABLE TO THE TAXATION YEAR 2004****“covered benefit”.**

766.8. In this chapter, “covered benefit” attributable to the taxation year 2004 means an amount determined in that year, other than an amount that is attributable to a period preceding that year and other than an amount that replaces an income referred to in paragraph *e* of section 725, and that is

(a) a benefit, other than an excluded benefit, intended to compensate a total or partial disability affecting a person’s capacity to perform the duties of an office or employment or to carry on a business either alone or as a partner actively engaged in the business, that is established on the basis of net income and determined under the Workers’ Compensation Act (chapter A-3), the Act respecting industrial accidents and occupational diseases (chapter A-3.001), the Act to promote good citizenship (chapter C-20) or the Act respecting occupational health and safety (chapter S-2.1);

(b) a pension established on the basis of net income and determined by the Société de l’assurance automobile du Québec under the Automobile Insurance Act (chapter A-25) or the Public Health Act (chapter S-2.2), except a death benefit paid in respect of a person who suffered bodily injury before 1 January 1990; or

(c) a payment similar to one of those described in subparagraphs *a* and *b* and made under an employees’ or workers’ compensation law of a province, other than Québec, or of Canada in respect of an injury, a disability or death.

“excluded benefit”.

For the purposes of subparagraph *a* of the first paragraph, “excluded benefit” means

(a) an amount that is the net salary or wages paid by an employer, in accordance with the Act respecting industrial accidents and occupational diseases, for each day or part of a day when a worker must be absent from work to receive care or undergo medical examinations in connection with the worker’s injury, or to take part in a personal rehabilitation program; or

(b) an amount that is a financial assistance payment for social stabilization or for economic stabilization under the Regulation respecting social stabilization and economic stabilization programs (chapter A-3.001, r. 14).

History: 2005, c. 38, s. 167.

Tax adjustment.

766.9. An individual who is resident in Québec on the last day of the taxation year 2004 and is the beneficiary of a covered benefit attributable to that year shall add to the individual’s tax otherwise payable, for that year, the lesser of \$1,840 and the amount obtained by multiplying 20% by the aggregate of all amounts each of which is an amount determined under any of sections 766.10 to 766.12.

Individual who dies or ceases to be resident in Canada.

For the purposes of the first paragraph, if an individual dies or ceases to be resident in Canada in the taxation year 2004, the last day of the individual’s taxation year is deemed to be the day on which the individual died or the last day on which the individual was resident in Canada.

Exception.

This section does not apply in respect of an individual’s separate fiscal return filed under the second paragraph of section 429 or section 681 or 1003.

History: 2005, c. 38, s. 167.

Covered benefit determined by the CNESST.

766.10. If section 766.9 applies to an individual in respect of a covered benefit attributable to the taxation year 2004 and the amount of which is determined by the Commission des normes, de l’équité, de la santé et de la sécurité du travail, there shall be included in computing, for that year, the aggregate referred to in the first paragraph of section 766.9, an amount equal to the total of

(a) in respect of a covered benefit attributable to the year and paid by an employer for the first 14 full days following the beginning of the individual’s disability, the lesser of the amounts determined by the following formulas:

i. $0.80 \times A$, and

ii. $0.90 \times B / C \times D$; and

(b) in respect of a covered benefit attributable to the year, other than the covered benefit referred to in subparagraph *a*, for each day of the year for which the covered benefit is determined, in this section referred to as the “particular day”, the lesser of the amounts determined for the particular day by the following formulas:

- i. $[(0.90 \times 0.80 \times E / F) - (0.80 \times G / F)] \times (1 - H)$, and
- ii. $[(0.90 \times I / F) - J] \times (1 - H)$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the total of the covered benefits attributable to the year and paid by the employer for the first 14 full days following the beginning of the individual’s disability;

(b) B is the amount determined under the third paragraph of section 1015.3 that is applicable for the year;

(c) C is the number of days in the year, excluding Saturdays and Sundays;

(d) D is the number of days in the year, excluding Saturdays and Sundays, between the day on which the individual’s disability begins and the day on which the individual returns to work, but without exceeding 14 days;

(e) E is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan (chapter R-9), the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;

(f) F is the number of days in the year;

(g) G is the annual gross revenue from a suitable employment or employment held, for the particular day;

(h) H is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;

(i) I is the total of the amount that the Commission des normes, de l’équité, de la santé et de la sécurité du travail estimated for the year on account of the amount in dollars that was referred to in the portion of section 752.0.1 before paragraph *a*, as it applied for the taxation year 2004, and the amount it estimated for the year on account of the flat amount referred to in the second paragraph of section 776.77, as it applied for the taxation year 2004, to the extent that that total is used by the Commission des normes, de l’équité, de la santé et de la sécurité du travail to establish the weighted

net income for the purpose of computing the covered benefit attributable to the year; and

(j) J is the lesser of

i. the amount obtained by multiplying 0.80 by the amount obtained by dividing the annual gross revenue from a suitable employment or employment held, for the particular day, by the number of days in the year, and

ii. the amount obtained by dividing the recognized amounts used to establish the weighted net income from a suitable employment or employment held, for the particular day, by the number of days in the year.

“annual gross revenue from a suitable employment or employment held”.

For the purposes of subparagraph *g* and subparagraph *i* of subparagraph *j* of the second paragraph, “annual gross revenue from a suitable employment or employment held”, for a particular day, means the annual gross revenue relating to a suitable employment or employment held that is taken into account in determining, for the particular day, the covered benefit attributable to the year, including the annual gross revenue from any benefit paid to the individual, because of a termination of employment, under a law of Québec or of any other jurisdiction, other than the Act respecting industrial accidents and occupational diseases (chapter A-3.001), or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan, the amount that would be the annual gross revenue relating to a suitable employment or employment held that would be taken into account in determining, for the particular day, the covered benefit attributable to the year if, from the year following that for which that gross revenue was last established, it were adjusted according to the same rules as those applicable to the covered benefit.

“recognized amounts used to establish the weighted net income from a suitable employment or employment held”.

For the purposes of subparagraph *ii* of subparagraph *j* of the second paragraph, “recognized amounts used to establish the weighted net income from a suitable employment or employment held”, for a particular day, means the total of the amount that the Commission des normes, de l’équité, de la santé et de la sécurité du travail estimated for the year on account of the amount in dollars that was referred to in the portion of section 752.0.1 before paragraph *a*, as it applied for the taxation year 2004, and the amount it estimated for the year on account of the flat amount referred to in the second paragraph of section 776.77, as it applied for the taxation year 2004, to the extent that that total is used by the Commission to establish the weighted net income from a suitable employment or employment held, for the particular day.

History: 2005, c. 38, s. 167; 2015, c. 15, s. 237.

Covered benefit determined by the SAAQ.

766.11. If section 766.9 applies to an individual in respect of a covered benefit attributable to the taxation year 2004 and the amount of which is determined by the Société de l'assurance automobile du Québec, there shall be included in computing, for that year, the aggregate referred to in the first paragraph of section 766.9, an amount equal to the aggregate of all amounts each of which is, for each day of the year for which the covered benefit is determined, in this section referred to as the "particular day", equal to the lesser of the amounts determined for the particular day by the following formulas:

(a) $\{[(0.90 \times 0.80 \times A / B) - (C \times 0.80 \times D / B)] \times (1 - E)\} - F / B$; and

(b) $\{[(0.90 \times G / B) - (C \times H)] \times (1 - E)\} - F / B$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan (chapter R-9), the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;

(b) B is the number of days in the year;

(c) C is,

i. if only part of the net income from an employment held is used to reduce, for the particular day, the covered benefit attributable to the year, the percentage attributed under the public compensation plan in respect of that net income, and

ii. in any other case, 100%;

(d) D is the annual gross revenue from a suitable employment or employment held, for the particular day;

(e) E is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;

(f) F is the amount obtained by multiplying 0.80 by the amount that is payable for the year as an old age pension or as a disability benefit payable under a plan established by a jurisdiction, other than Québec, and equivalent to the plan established under the Act respecting the Québec Pension Plan, and that is, in determining, for the particular day, the covered benefit attributable to the year, used by the Société de l'assurance automobile du Québec to reduce the amount of that covered benefit;

(g) G is the total of \$6,150 and the amounts estimated by the Société de l'assurance automobile du Québec for the year 2003, as an employee's premium under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) and as an employee's contribution under the Act respecting the Québec Pension Plan, to the extent that that total is used by the Société to establish the weighted net income for the purpose of computing, for the particular day, the covered benefit attributable to the year; and

(h) H is the lesser of

i. the amount obtained by multiplying 0.80 by the amount obtained by dividing the annual gross revenue from a suitable employment or employment held, for the particular day, by the number of days in the year, and

ii. the amount obtained by dividing the recognized amounts used to establish the weighted net income from a suitable employment or employment held, for the particular day, by the number of days in the year.

"annual gross revenue from a suitable employment or employment held".

For the purposes of subparagraph *d* and subparagraph *i* of subparagraph *h* of the second paragraph, "annual gross revenue from a suitable employment or employment held", for a particular day, means the annual gross revenue relating to a suitable employment or employment held that is taken into account in determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the Act respecting the Québec Pension Plan, the amount that would be the annual gross revenue relating to a suitable employment or employment held that would be taken into account in determining, for the particular day, the covered benefit attributable to the year if, from the year following that for which that gross revenue was last established, it were adjusted according to the same rules as those applicable to the covered benefit.

"recognized amounts used to establish the weighted net income from a suitable employment or employment held".

For the purposes of subparagraph *ii* of subparagraph *h* of the second paragraph, "recognized amounts used to establish the weighted net income from a suitable employment or employment held", for a particular day, means the total of \$6,150 and the amounts estimated by the Société de l'assurance automobile du Québec for the year 2003, as an employee's premium under the Employment Insurance Act and as an employee's contribution under the Act respecting the Québec Pension Plan, to the extent that that total is used by the Société to establish the weighted net income from a suitable employment or employment held, for the particular day.

History: 2005, c. 38, s. 167.

Covered benefit determined by another entity.

766.12. If section 766.9 applies to an individual in respect of a covered benefit attributable to the taxation year 2004 and the amount of which is determined by an entity, other than the Commission des normes, de l'équité, de la santé et de la sécurité du travail and the Société de l'assurance automobile du Québec, there must be included in computing, for that year, the aggregate referred to in the first paragraph of section 766.9, an amount equal to the aggregate of all amounts each of which is, for each day of the year for which the covered benefit is determined (in this section referred to as the "particular day"), equal to the lesser of the amounts determined for the particular day by the following formulas:

(a) $\{[(0.80 \times A \times B / C) - (0.80 \times D \times E / C)] \times (1 - F)\} - G / C$; and

(b) $\{[(A \times \$9,200 / C) - H] \times (1 - F)\} - G / C$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the percentage that applies to the income insured by the public compensation plan for the purpose of determining, for the particular day, the covered benefit attributable to the year;

(b) B is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with the public compensation plan, the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;

(c) C is the number of days in the year for which the covered benefits attributable to the year are determined by the entity referred to in the first paragraph;

(d) D is

i. if only a portion of the income, other than the recognized income on the date of the event giving rise to the covered benefit attributable to the year, is taken into consideration for the purpose of determining, for the particular day, the covered benefit attributable to the year, the percentage attributed under the public compensation plan in respect of that income, and

ii. in any other case, 100%;

(e) E is the annual gross revenue from a suitable employment or employment held, for the particular day;

(f) F is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;

(g) G is the amount obtained by multiplying 0.80 by the amount that is, in determining, for the particular day, the covered benefit attributable to the year, used to reduce the amount of that covered benefit; and

(h) H is the lesser of

i. the amount obtained by multiplying 0.80 by the amount obtained by multiplying the percentage determined for the year under subparagraph *d* by the amount obtained by dividing the annual gross revenue from a suitable employment or employment held, for the particular day, by the number of days in the year, and

ii. the amount obtained by multiplying the percentage determined for the year under subparagraph *d* by the amount obtained by dividing \$9,200 by the number of days in the year.

Annual gross revenue from suitable employment or employment held.

For the purposes of subparagraph *e* and subparagraph *i* of subparagraph *h* of the second paragraph, "annual gross revenue from a suitable employment or employment held", for a particular day, means the annual gross revenue relating to a suitable employment or employment held, including any other amount that replaces work income, that is taken into account in determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with the public compensation plan, the amount that would be the annual gross revenue relating to a suitable employment or employment held that would be taken into account in determining, for the particular day, the covered benefit attributable to the year if, from the year for which that gross revenue was last established, it were adjusted according to the same rules as those applicable to the covered benefit.

History: 2005, c. 38, s. 167; 2009, c. 5, s. 302; 2015, c. 15, s. 237.

Rules applicable to an individual resident in Canada during part of the year.

766.13. For the purposes of this chapter, if an individual to whom section 766.9 applies for the taxation year 2004 was resident in Canada only during part of that year, the following rules apply:

(a) there shall be taken into account, as a covered benefit attributable to that year, only an amount that can reasonably be considered wholly attributable to any period in the year throughout which the individual was resident in Canada; and

(b) the amount of \$1,840 referred to in the first paragraph of section 766.9 is to be replaced by an amount equal to the amount obtained by multiplying \$1,840 by the proportion

that the number of days in any period of the year throughout which the individual was resident in Canada is of the number of days in the year.

History: 2005, c. 38, s. 167.

Individual resident in Québec and carrying on a business in Canada but outside Québec.

766.14. For the purposes of this chapter, if an individual to whom section 766.9 applies for the taxation year 2004 is referred to in the second paragraph of section 22, the amount of \$1,840 provided for in the first paragraph of section 766.9 is to be replaced by the amount obtained by multiplying \$1,840 by the proportion determined under the second paragraph of section 22 in respect of the individual for the year.

History: 2005, c. 38, s. 167.

Rules applicable to a bankrupt individual.

766.15. For the purposes of this chapter, if an individual becomes a bankrupt in the calendar year 2004, the following rules apply:

(a) there shall be taken into account, as a covered benefit attributable to each of the individual's taxation years referred to in section 779 that end in the calendar year, only an amount that is wholly attributable to that taxation year; and

(b) the amount of \$1,840 provided for in the first paragraph of section 766.9 is to be replaced, for each of the individual's taxation years referred to in section 779 that end in the calendar year, by the amount obtained by multiplying \$1,840 by the proportion that the number of days in that taxation year is of the number of days in the calendar year.

History: 2005, c. 38, s. 167.

CHAPTER II.5

(Repealed).

766.16. *(Repealed).*

History: 2005, c. 38, s. 167; 2015, c. 21, s. 308.

766.17. *(Repealed).*

History: 2005, c. 38, s. 167; 2009, c. 15, s. 148; 2011, c. 6, s. 161; 2015, c. 21, s. 308.

CHAPTER III

DEDUCTION IN RESPECT OF TAXABLE DIVIDENDS

Deduction in respect of taxable dividends.

767. An individual may deduct from the individual's tax otherwise payable under this Part for a taxation year the aggregate of

(a) the amount obtained by multiplying the amount the individual is required to include in computing the individual's income for the year under subparagraph *a* of the second paragraph of section 497 by

- i. 7.2848/16, for the taxation year 2018,
- ii. 6.3825/15, for the taxation year 2019,
- iii. 5.4855/15, for the taxation year 2020, and
- iv. 4.6115/15, for a taxation year subsequent to the taxation year 2020; and

(b) the amount obtained by multiplying the amount the individual is required to include in computing the individual's income for the year under subparagraph *b* of the second paragraph of section 497 by

- i. 16.3668/38, for the taxation year 2018,
- ii. 16.2564/38, for the taxation year 2019, and
- iii. 16.146/38, for a taxation year subsequent to the taxation year 2019.

Restriction.

However, where that individual is an individual contemplated in the second paragraph of any of sections 22, 25 or 26, he shall deduct no more than the part of the amount determined under the first paragraph which is equal to the proportion contemplated in the second paragraph of one of the said sections, as the case may be.

Application.

The first paragraph does not apply in respect of an amount deducted under paragraph *e* of section 725 in computing the individual's taxable income for the year or in respect of an amount that is

(a) an amount included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period, within the meaning of section 737.18.6, in relation to an employment that is included in the year;

(b) the part of an amount, included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, within the meaning of section 737.18.29, in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period; or

(c) the part of an amount, included in the part of the individual's income for the year that may reasonably be

considered to be earned in the part of a specified period of the individual, established under the fourth paragraph of section 65 of the Act respecting international financial centres (chapter C-8.3), in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period.

History: 1972, c. 23, s. 580; 1978, c. 26, s. 137; 1984, c. 15, s. 178; 1986, c. 15, s. 118; 1988, c. 4, s. 64; 1988, c. 18, s. 67; 1989, c. 5, s. 113; 1997, c. 85, s. 148; 1999, c. 86, s. 99; 2000, c. 39, s. 68; 2001, c. 7, s. 107; 2001, c. 53, s. 131; 2003, c. 9, s. 97; 2004, c. 21, s. 197; 2005, c. 38, s. 168; 2009, c. 5, s. 303; 2009, c. 15, s. 149; 2015, c. 21, s. 309; 2017, c. 1, s. 202; 2019, c. 14, s. 237.

Corresponding Federal Provision: 121.

CHAPTER IV TAX PAYABLE BY TRUSTS

Tax payable by trust.

768. Despite section 750, the tax payable under this Part for a taxation year by a trust (other than a qualified disability trust, a trust to which section 770 or 770.0.1 applies or a succession that is a graduated rate estate) is equal to the aggregate of

(a) the amount obtained by multiplying the percentage specified for the year in section 750.1.1 by its taxable income for the year; and

(b) if any of the conditions of paragraphs *a* to *c* of section 768.1 is met in respect of the trust for the taxation year, the amount determined by the formula

$$A - (B - C)$$

Interpretation.

In the formula in subparagraph *b* of the first paragraph,

(a) *A* is the amount that would be determined under subparagraph *b* for the year if

i. the percentage applicable for the purpose of determining the tax payable by the trust for each taxation year referred to in subparagraph *b* were the percentage specified for that year in section 750.1.1, and

ii. the trust's taxable income for a particular taxation year referred to in subparagraph *b* were reduced by the total of

(1) if the conditions of the third paragraph are met, the amount that was paid or distributed in satisfaction of all or part of an individual's interest as a beneficiary under the trust,

(2) the portion of the tax payable by the trust for the particular taxation year under Part I of the Income Tax Act

(Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) that can reasonably be considered to be attributable to an amount determined in accordance with subparagraph 1,

(3) the portion of the tax payable by the trust for the particular taxation year to a government of a province (other than Québec) in which the trust is resident for the particular taxation year that can reasonably be considered to be attributable to an amount determined in accordance with subparagraph 1, and

(4) the portion of the tax payable by the trust for the particular taxation year under this Part that can reasonably be considered to be attributable to an amount determined in accordance with subparagraph 1;

(b) *B* is the aggregate of all amounts each of which is the tax payable under this Part by the trust for a taxation year that precedes the taxation year referred to in the first paragraph if that preceding taxation year is

i. the first taxation year for which the trust was a qualified disability trust or, if it is later, the last taxation year for which section 768.1 applied to the trust, if applicable, or

ii. a taxation year that ends after the taxation year described in subparagraph *i*; and

(c) *C* is the aggregate of all amounts each of which is an amount determined under subparagraph 4 of subparagraph *ii* of subparagraph *a* in determining the value of *A* in the formula in subparagraph *b* of the first paragraph for the year.

Conditions.

The conditions to which subparagraph 1 of subparagraph *ii* of subparagraph *a* of the second paragraph refers are the following:

(a) the individual referred to in that subparagraph 1 was an electing beneficiary of the trust for the particular taxation year;

(b) the payment or distribution can reasonably be considered to have been made out of the trust's taxable income for the particular taxation year; and

(c) the payment or distribution was made in a taxation year referred to in subparagraph *b* of the second paragraph.

History: 1972, c. 23, s. 581; 1996, c. 39, s. 273; 1997, c. 85, s. 330; 2001, c. 51, s. 70; 2009, c. 5, s. 304; 2013, c. 10, s. 56; 2017, c. 1, s. 203; 2020, c. 16, s. 114.

Corresponding Federal Provision: 122(1).

Qualified disability trust.

768.1. The conditions to which subparagraph *b* of the first paragraph of section 768 refers in respect of a trust, for a

particular taxation year, that was a qualified disability trust for a preceding taxation year, are the following:

(a) none of the beneficiaries under the trust at the end of the particular taxation year was an electing beneficiary of the trust for a preceding taxation year;

(b) the particular taxation year ended immediately before the trust ceased to be resident in Canada; and

(c) an amount is paid or distributed in the particular taxation year to a beneficiary under the trust in satisfaction of all or part of the beneficiary's interest in the trust unless

i. the beneficiary is an electing beneficiary of the trust for the particular taxation year or a preceding taxation year,

ii. the amount is deducted under paragraph *a* of section 657 in computing the trust's income for the particular taxation year, or

iii. the amount is paid or distributed in satisfaction of a right to enforce payment of an amount that was deducted under paragraph *a* of section 657 in computing the trust's income for a preceding taxation year.

History: 2017, c. 1, s. 204.

Corresponding Federal Provision: 122(2).

Definitions:

768.2. For the purposes of sections 768, 768.1 and this section,

“beneficiary”;

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

“electing beneficiary”;

“electing beneficiary” of a qualified disability trust for a taxation year means a beneficiary under the trust that for the year

(a) makes an election described in subparagraph iii of paragraph *a* of the definition of “qualified disability trust”; and

(b) is described in paragraph *b* of the definition of “qualified disability trust”;

“qualified disability trust”.

“qualified disability trust” for a taxation year (in this definition referred to as the “trust year”) means a trust that meets the following conditions:

(a) the trust

i. is, at the end of the trust year, a testamentary trust that arose on and as a consequence of a particular individual's death,

ii. is resident in Canada for the trust year, and

iii. has made, for the trust year, a valid election under clause A of subparagraph iii of paragraph *a* of the definition of “qualified disability trust” in subsection 3 of section 122 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), jointly with one or more beneficiaries under the trust;

(b) each of the beneficiaries referred to in subparagraph iii of paragraph *a* is an individual named as a beneficiary by the particular individual in the instrument under which the trust was created and the following conditions are met in respect of each of those beneficiaries:

i. subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply in respect of the beneficiary for the beneficiary's taxation year (in this definition referred to as the “beneficiary year”) in which the trust year ends, and

ii. the beneficiary does not jointly elect with any other trust, for a taxation year of the other trust that ends in the beneficiary year, to have that other trust qualify as a disability trust; and

(c) none of the conditions of paragraphs *a* to *c* of section 768.1 has been met, in respect of the trust, for the trust year.

Additional rules.

Chapter V.2 of Title II of Book I of Part I applies in relation to an election made under clause A of subparagraph iii of paragraph *a* of the definition of “qualified disability trust” in subsection 3 of section 122 of the Income Tax Act.

History: 2017, c. 1, s. 204.

Corresponding Federal Provision: 122(3).

769. (*Repealed*).

History: 1972, c. 23, s. 582; 2003, c. 2, s. 227; 2015, c. 36, s. 49; 2017, c. 1, s. 205.

Corresponding Federal Provision: 122(2).

Tax payable by mutual fund trust.

770. Despite section 750, the tax payable under this Part by a mutual fund trust, other than a SIFT trust, on its taxable income for a taxation year is equal to the amount obtained by multiplying the percentage specified in section 750.1.1 by its taxable income reduced by the amount by which its taxable capital gains for the year exceed its allowable capital losses for the year and increased by the amounts deducted for the year under section 729.

History: 1972, c. 23, s. 583; 1985, c. 25, s. 130; 1996, c. 39, s. 273; 1997, c. 85, s. 330; 2001, c. 51, s. 71; 2009, c. 5, s. 305; 2013, c. 10, s. 57.

Tax payable by SIFT trust.

770.0.1. Despite section 750, the tax payable under this Part by a SIFT trust on its taxable income for a taxation year is equal to the amount of tax that would be payable by the

trust under section 768 or 770 on its taxable income for the taxation year if

(a) section 768 or 770 applied to a SIFT trust; and

(b) the taxable income of the SIFT trust were equal to the amount by which its taxable income otherwise determined exceeds the amount determined in its respect for the year under paragraph *b* of the definition of “taxable distributions amount” in the first paragraph of section 1129.70.

History: 2009, c. 5, s. 306.

Corresponding Federal Provision: 122(1) in fine.

Deductions available to trusts.

770.1. No deduction may be made under this Title in computing the tax payable by a trust for a taxation year, except the deductions provided for in Chapters I.0.2.1, I.3 and III.

History: 1989, c. 5, s. 114; 2005, c. 1, s. 181; 2017, c. 1, s. 206.

Corresponding Federal Provision: 122(1.1).

TITLE II

TAX PAYABLE BY CORPORATIONS

Tax payable by a corporation.

771. (1) Except as otherwise provided in this Part, the tax payable by a corporation for a taxation year is equal,

(a) in the case of a deposit insurance corporation described in paragraph *b* of section 804, to the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to its taxable income for the year;

(b) *(paragraph repealed)*;

(c) *(paragraph repealed)*;

(d) *(paragraph repealed)*;

(d.1) *(paragraph repealed)*;

(d.2) in the case of a corporation other than a corporation referred to in paragraph *a*, to the amount by which the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to its taxable income for the year exceeds, if the corporation has been throughout the year a Canadian-controlled private corporation, the amount obtained by applying the percentage determined in its respect for the year under section 771.0.2.4 to the amount determined in its respect for the year under section 771.2.1.2;

(d.3) despite paragraph *d.2*, in the case of a corporation other than a corporation referred to in paragraph *a*, for a taxation year for which the corporation is a manufacturing corporation, to the amount by which the amount obtained by applying the basic rate determined in its respect for the year

under section 771.0.2.3.1 to its taxable income for the year exceeds, if the corporation has been throughout the year a Canadian-controlled private corporation, the amount obtained by applying the percentage determined in its respect for the year under section 771.0.2.5 to the amount determined in its respect for the year under section 771.2.1.2;

(d.4) despite paragraph *d.2*, in the case of a corporation other than a corporation referred to in paragraph *a*, for a taxation year for which the corporation is a primary and manufacturing sectors corporation, to the amount by which the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to its taxable income for the year exceeds, if the corporation has been throughout the year a Canadian-controlled private corporation, the amount obtained by applying the percentage determined in its respect for the year under section 771.0.2.6 to the amount determined in its respect for the year under section 771.2.1.2;

(e) *(paragraph repealed)*;

(f) *(paragraph repealed)*;

(g) *(paragraph repealed)*;

(h) despite paragraph *d.2*, in the case of a corporation other than a corporation referred to in paragraph *a*, for a taxation year for which it is a qualified corporation, to the amount by which the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to its taxable income for the year exceeds the aggregate of

i. the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to the amount determined in its respect for the year under section 771.8.3, and

ii. *(subparagraph repealed)*,

ii.1. if the corporation has been throughout the year a Canadian-controlled private corporation, the amount obtained by applying the percentage determined in its respect for the year under section 771.0.2.4 to the amount by which the amount determined in its respect for the year under section 771.2.1.2 exceeds the amount determined in its respect for the year under section 771.8.3,

iii. *(subparagraph repealed)*;

(i) *(paragraph repealed)*;

(j) despite paragraph *d.2*, in the case of a corporation other than a corporation referred to in paragraph *a*, for a taxation year for which it is an exempt corporation, to the amount by which the amount obtained by applying the basic rate determined in its respect for the year under

section 771.0.2.3.1 to its taxable income for the year exceeds the aggregate of

i. the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to the amount determined in its respect for the year under section 771.8.5, and

ii. *(subparagraph repealed)*,

iii. if the corporation was a Canadian-controlled private corporation throughout the year, the amount obtained by applying the percentage determined in its respect for the year under section 771.0.2.4 to the amount that would be determined in its respect for the year under section 771.2.1.2 if the excess amount determined under paragraphs *a* and *b* of that section were reduced by the amount determined in its respect for the year under section 771.8.5;

(j.1) despite paragraphs *d.2* to *d.4*, in the case of a corporation other than a corporation referred to in paragraph *a*, for a taxation year for which it is a corporation dedicated to the commercialization of intellectual property, to the amount by which the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to its taxable income for the year exceeds the aggregate of

i. the amount obtained by applying the basic rate determined in its respect for the year under section 771.0.2.3.1 to the amount determined in its respect for the year under section 771.8.5.1, and

ii. if the corporation was a Canadian-controlled private corporation throughout the year, the amount obtained by applying, to the amount that would be determined in its respect for the year under section 771.2.1.2 if the excess amount determined under paragraphs *a* and *b* of that section were reduced by the amount determined in its respect for the year under section 771.8.5.1,

(1) if neither subparagraph 2 nor subparagraph 3 applies to the corporation, the percentage determined in its respect for the year under section 771.0.2.4,

(2) if the corporation is a manufacturing corporation for the year, the percentage determined in its respect for the year under section 771.0.2.5, or

(3) if the corporation is a primary and manufacturing sectors corporation for the year, the percentage determined in its respect for the year under section 771.0.2.6;

(k) *(paragraph repealed)*.

Corporation carrying on business outside Québec.

(2) For the purposes of section 27, the method of computing the proportion that the business of a corporation carried on in Québec is of the aggregate of the business carried on in

Canada or in Québec and elsewhere shall be established by regulation.

History: 1972, c. 23, s. 584; 1980, c. 13, s. 68; 1981, c. 12, s. 8; 1987, c. 21, s. 26; 1989, c. 5, s. 115; 1990, c. 7, s. 67; 1991, c. 8, s. 46; 1992, c. 1, s. 59; 1993, c. 19, s. 59; 1995, c. 1, s. 199; 1995, c. 63, s. 64; 1997, c. 3, s. 33; 1997, c. 85, s. 149; 1999, c. 83, s. 101; 2000, c. 39, s. 69; 2004, c. 21, s. 198; 2005, c. 23, s. 102; 2005, c. 38, s. 169; 2009, c. 5, s. 307; 2010, c. 5, s. 65; 2015, c. 21, s. 310; 2017, c. 1, s. 207.

Interpretation Bulletins: IMP. 14-1/R2; IMP. 135.2-1/R1; IMP. 772-1/R2.

Corresponding Federal Provision: 123(1), 124.4 “taxable income earned in the year in a province”, 125(1) before (a) and (7) and 137.1(9).

771.0.1. *(Repealed)*.

History: 1987, c. 21, s. 27; 1989, c. 5, s. 116; 1990, c. 7, s. 68; 1997, c. 3, s. 71; 2000, c. 39, s. 70.

771.0.1.1. *(Repealed)*.

History: 1990, c. 7, s. 69; 1991, c. 8, s. 47; 1997, c. 3, s. 71; 2000, c. 39, s. 70.

771.0.1.2. *(Repealed)*.

History: 1991, c. 8, s. 48; 1992, c. 1, s. 60; 1997, c. 3, s. 71; 2000, c. 39, s. 70.

771.0.2. *(Repealed)*.

History: 1989, c. 5, s. 117; 1990, c. 59, s. 294; 1995, c. 63, s. 65; 1997, c. 3, s. 71; 2000, c. 39, s. 70.

771.0.2.1. *(Repealed)*.

History: 1992, c. 1, s. 61; 1993, c. 19, s. 60 [amended by 1995, c. 63, s. 531]; 1994, c. 22, s. 266 [amended by 1995, c. 63, s. 538]; 1995, c. 63, s. 66; 1997, c. 3, s. 71; 1997, c. 85, s. 150; 2000, c. 39, s. 70.

Determination of amount.

771.0.2.2. For the purposes of sections 771.2.1.2, 771.8.3, 771.8.5 and 771.8.5.1, the amount that must be determined in respect of a corporation for a taxation year under this section is the amount determined in respect of the corporation for the year by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the amount determined for the year in respect of the corporation under sections 772.2 to 772.13;

(b) B is, in the case of a corporation contemplated in the second paragraph of section 27, the proportion referred to in

that second paragraph for the year in respect of the corporation or, in every other case, 1;

(c) C is the basic rate determined in respect of the corporation for the year under section 771.0.2.3.1.

History: 1993, c. 19, s. 61; 1995, c. 63, s. 67; 1997, c. 3, s. 71; 1997, c. 85, s. 151; 2000, c. 39, s. 71; 2005, c. 38, s. 170; 2009, c. 5, s. 308; 2010, c. 5, s. 66.

771.0.2.3. *(Repealed).*

History: 2005, c. 38, s. 171; 2009, c. 5, s. 309.

Basic rate applicable.

771.0.2.3.1. For the purposes of sections 771 and 771.0.2.2, the basic rate that must be determined in respect of a corporation for a taxation year under this section is equal to

(a) if the taxation year begins before 1 January 2009, the total of

i. the proportion of 16.25% that the number of days in the taxation year that precede 21 February 2007 is of the number of days in the taxation year,

ii. the proportion of 9.9% that the number of days in the taxation year that follow 20 February 2007 but precede 1 June 2007 is of the number of days in the taxation year,

iii. the proportion of 11.9% if the corporation is a financial institution or an oil refining corporation, or of 9.9% in any other case, that the number of days in the taxation year that follow 31 May 2007 but precede 1 January 2008 is of the number of days in the taxation year,

iv. the proportion of 11.9% if the corporation is a financial institution or an oil refining corporation, or of 11.4% in any other case, that the number of days in the taxation year that follow 31 December 2007 but precede 1 January 2009 is of the number of days in the taxation year, and

v. the proportion of 11.9% that the number of days in the taxation year that follow 31 December 2008 is of the number of days in the taxation year;

(b) if the taxation year begins after 31 December 2008 and ends before 1 January 2017, 11.9%; and

(c) if the taxation year ends after 31 December 2016, the total of

i. the proportion of 11.9% that the number of days in the taxation year that precede 1 January 2017 is of the number of days in the taxation year,

ii. the proportion of 11.8% that the number of days in the taxation year that follow 31 December 2016 but precede 1 January 2018 is of the number of days in the taxation year,

iii. the proportion of 11.7% that the number of days in the taxation year that follow 31 December 2017 but precede 1 January 2019 is of the number of days in the taxation year,

iv. the proportion of 11.6% that the number of days in the taxation year that follow 31 December 2018 but precede 1 January 2020 is of the number of days in the taxation year, and

v. the proportion of 11.5% that the number of days in the taxation year that follow 31 December 2019 is of the number of days in the taxation year.

History: 2009, c. 5, s. 310; 2017, c. 1, s. 208.

Percentages applicable.

771.0.2.4. For the purposes of section 771, the percentage that must be determined in respect of a corporation for a taxation year under this section is equal to

(a) if the taxation year begins before 1 January 2009, the total of

i. the proportion of 1.4% that the number of days in the taxation year that precede 24 March 2006 is of the number of days in the taxation year,

ii. the proportion of 1.9% that the number of days in the taxation year that follow 23 March 2006 but precede 1 June 2007 is of the number of days in the taxation year,

iii. the proportion of 3.9% if the corporation is a financial institution or an oil refining corporation, or of 1.9% in any other case, that the number of days in the taxation year that follow 31 May 2007 but precede 1 January 2008 is of the number of days in the taxation year,

iv. the proportion of 3.9% if the corporation is a financial institution or an oil refining corporation, or of 3.4% in any other case, that the number of days in the taxation year that follow 31 December 2007 but precede 1 January 2009 is of the number of days in the taxation year, and

v. the proportion of 3.9% that the number of days in the taxation year that follow 31 December 2008 is of the number of days in the taxation year;

(b) if the taxation year begins after 31 December 2008 but before 1 January 2017, the total of

i. the proportion of 3.9% that the number of days in the taxation year that precede 1 January 2017 is of the number of days in the taxation year,

ii. the proportion of 3.8% that the number of days in the taxation year that follow 31 December 2016 but precede 1 January 2018 is of the number of days in the taxation year, and

iii. the proportion of 3.7% that the number of days in the taxation year that follow 31 December 2017 but precede 1 January 2019 is of the number of days in the taxation year; and

(c) if the taxation year begins after 31 December 2016 and

i. if the number of hours referred to in subparagraph *a* or *b* of the first paragraph of section 771.2.1.2.1 in respect of the corporation for the taxation year or the number of hours referred to in the first paragraph of section 771.2.1.2.2 in respect of a partnership of which the corporation is a member in the taxation year, whichever is greater, is at least 5,500, the total of

(1) the proportion of 3.8% that the number of days in the taxation year that precede 1 January 2018 is of the number of days in the taxation year,

(2) the proportion of 3.7% that the number of days in the taxation year that follow 31 December 2017 but precede 28 March 2018 is of the number of days in the taxation year,

(2.1) the proportion of 4.7% that the number of days in the taxation year that follow 27 March 2018 but precede 1 January 2019 is of the number of days in the taxation year,

(3) the proportion of 5.6% that the number of days in the taxation year that follow 31 December 2018 but precede 1 January 2020 is of the number of days in the taxation year,

(4) the proportion of 6.5% that the number of days in the taxation year that follow 31 December 2019 but precede 1 January 2021 is of the number of days in the taxation year, and

(5) the proportion of 7.5% that the number of days in the taxation year that follow 31 December 2020 is of the number of days in the taxation year, or

ii. unless subparagraph *i* applies, the percentage determined by the formula

$$A \times (B - 5,000) / 500.$$

Interpretation.

In the formula in subparagraph *ii* of subparagraph *c* of the first paragraph,

(a) *A* is the percentage that would be determined under subparagraph *i* of subparagraph *c* of the first paragraph if that subparagraph *i* applied; and

(b) *B* is the number of hours referred to in subparagraph *a* or *b* of the first paragraph of section 771.2.1.2.1 in respect of the corporation for the taxation year, the number of hours referred to in the first paragraph of section 771.2.1.2.2 in respect of a partnership of which the corporation is a member

in the taxation year or 5,000, whichever number is the greatest.

History: 2005, c. 38, s. 171; 2006, c. 36, s. 77; 2009, c. 5, s. 311; 2017, c. 1, s. 209.

Percentages applicable in respect of a manufacturing corporation.

771.0.2.5. The percentage that is required to be determined for a taxation year for the purposes of paragraph *d.3* of subsection 1 of section 771 in respect of a manufacturing corporation is equal,

(a) if the proportion of the manufacturing or processing activities of the manufacturing corporation for the taxation year is 50% or more and

i. the taxation year begins before 1 April 2015, to the total of

(1) 3.9%,

(2) the proportion of 2% that the number of days in the taxation year that follow 4 June 2014 but precede 1 April 2015 is of the number of days in the taxation year, and

(3) the proportion of 4% that the number of days in the taxation year that follow 31 March 2015 is of the number of days in the taxation year, or

ii. the taxation year begins after 31 March 2015 but before 1 January 2017, to the total of

(1) the proportion of 7.9% that the number of days in the taxation year that precede 1 January 2017 is of the number of days in the taxation year,

(2) the proportion of 7.8% that the number of days in the taxation year that follow 31 December 2016 but precede 1 January 2018 is of the number of days in the taxation year, and

(3) the proportion of 7.7% that the number of days in the taxation year that follow 31 December 2017 is of the number of days in the taxation year; and

(b) if the proportion of the manufacturing or processing activities of the manufacturing corporation for the taxation year is less than 50% and

i. the taxation year begins before 1 April 2015, to the total of

(1) 3.9%,

(2) the percentage determined by the formula

$$A \times (C - 25\%) / 25\%, \text{ and}$$

(3) the percentage determined by the formula

$B \times (C - 25\%) / 25\%$, or

ii. the taxation year begins after 31 March 2015 but before 1 January 2017, to the total of

(1) the proportion of 3.9% that the number of days in the taxation year that precede 1 January 2017 is of the number of days in the taxation year,

(1.1) the proportion of 3.8% that the number of days in the taxation year that follow 31 December 2016 but precede 1 January 2018 is of the number of days in the taxation year,

(1.2) the proportion of 3.7% that the number of days in the taxation year that follow 31 December 2017 is of the number of days in the taxation year, and

(2) the percentage determined by the formula

$4\% \times (C - 25\%) / 25\%$.

Interpretation.

In the formulas in subparagraph *b* of the first paragraph,

(a) *A* is the proportion of 2% that the number of days in the taxation year that follow 4 June 2014 but precede 1 April 2015 is of the number of days in the taxation year;

(b) *B* is the proportion of 4% that the number of days in the taxation year that follow 31 March 2015 is of the number of days in the taxation year; and

(c) *C* is the proportion of the manufacturing or processing activities of the manufacturing corporation for the taxation year.

History: 2015, c. 21, s. 311; 2017, c. 1, s. 210.

Percentages applicable in respect of a primary and manufacturing sectors corporation.

771.0.2.6. The percentage that is required to be determined for a taxation year for the purposes of paragraph *d.4* of subsection 1 of section 771 in respect of a primary and manufacturing sectors corporation is equal,

(a) if the proportion of primary and manufacturing sectors activities of the corporation for the taxation year is 50% or more, to the total of

i. the proportion of 7.8% that the number of days in the taxation year that precede 1 January 2018 is of the number of days in the taxation year,

ii. the proportion of 7.7% that the number of days in the taxation year that follow 31 December 2017 but precede 1 January 2019 is of the number of days in the taxation year,

iii. the proportion of 7.6% that the number of days in the taxation year that follow 31 December 2018 but precede

1 January 2020 is of the number of days in the taxation year, and

iv. the proportion of 7.5% that the number of days in the taxation year that follow 31 December 2019 is of the number of days in the taxation year; and

(b) in any other case, to the greater of the percentages determined by the formulas

i. $A \times (B - 25\%) / 25\%$, and

ii. $[C \times (D - 5,000) / 500] + [E \times (B - 25\%) / 25\%]$.

Interpretation.

In the formulas in subparagraph *b* of the first paragraph,

(a) *A* is the percentage that would be determined under subparagraph *a* of the first paragraph if that subparagraph applied;

(b) *B* is the proportion of primary and manufacturing sectors activities of the corporation for the taxation year;

(c) *C* is the total of

i. the proportion of 3.8% that the number of days in the taxation year that precede 1 January 2018 is of the number of days in the taxation year,

ii. the proportion of 3.7% that the number of days in the taxation year that follow 31 December 2017 but precede 28 March 2018 is of the number of days in the taxation year,

ii.1. the proportion of 4.7% that the number of days in the taxation year that follow 27 March 2018 but precede 1 January 2019 is of the number of days in the taxation year,

iii. the proportion of 5.6% that the number of days in the taxation year that follow 31 December 2018 but precede 1 January 2020 is of the number of days in the taxation year,

iv. the proportion of 6.5% that the number of days in the taxation year that follow 31 December 2019 but precede 1 January 2021 is of the number of days in the taxation year, and

v. the proportion of 7.5% that the number of days in the taxation year that follow 31 December 2020 is of the number of days in the taxation year;

(d) *D* is 5,000 or, if it is greater but without exceeding 5,500, the number of hours referred to in subparagraph *a* or *b* of the first paragraph of section 771.2.1.2.1 in respect of the corporation for the taxation year or the number of hours referred to in the first paragraph of section 771.2.1.2.2 in respect of a partnership of which the corporation is a member in the taxation year, whichever number is greater;

(e) E is the total of

i. the proportion of 4% that the number of days in the taxation year that precede 28 March 2018 is of the number of days in the taxation year,

ii. the proportion of 3% that the number of days in the taxation year that follow 27 March 2018 but precede 1 January 2019 is of the number of days in the taxation year,

iii. the proportion of 2% that the number of days in the taxation year that follow 31 December 2018 but precede 1 January 2020 is of the number of days in the taxation year,

iv. the proportion of 1% that the number of days in the taxation year that follow 31 December 2019 but precede 1 January 2021 is of the number of days in the taxation year, and

v. a nil percentage in respect of the days in the taxation year that follow 31 December 2020.

History: 2017, c. 1, s. 211; 2019, c. 14, s. 239.

771.0.3. (Repealed).

History: 1989, c. 5, s. 117; 1997, c. 3, s. 71; 2000, c. 39, s. 72.

771.0.3.1. (Repealed).

History: 1992, c. 1, s. 62; 1997, c. 3, s. 71; 2000, c. 39, s. 73; 2004, c. 21, s. 199.

771.0.4. (Repealed).

History: 1989, c. 5, s. 117; 2000, c. 39, s. 74.

771.0.4.1. (Repealed).

History: 1992, c. 1, s. 63; 2000, c. 39, s. 74.

771.0.5. (Repealed).

History: 1989, c. 5, s. 117; 1992, c. 1, s. 64; 1997, c. 3, s. 71; 2000, c. 39, s. 74.

771.0.6. (Repealed).

History: 1989, c. 5, s. 117; 1992, c. 1, s. 65; 1997, c. 3, s. 71; 2000, c. 39, s. 75; 2004, c. 21, s. 200.

Associated corporations.

771.0.7. For the purposes of this Title, a corporation is deemed, for the purpose of determining whether it is associated with one or more other corporations in a taxation year, not to be associated in that year with a corporation which, in that year, is not resident and does not have any establishment in Canada.

History: 1997, c. 85, s. 152.

Definitions:

771.1. In this Title,

adjusted aggregate investment income;

“adjusted aggregate investment income” of a corporation for a taxation year means the amount determined in respect of the corporation for the year under the definition of “adjusted aggregate investment income” in subsection 7 of section 125 of the Income Tax Act;

“biotechnology development centre”;

“biotechnology development centre” means a building designated as such by Investissement Québec;

“corporation dedicated to the commercialization of intellectual property”;

“corporation dedicated to the commercialization of intellectual property” has the meaning assigned by sections 771.14 and 771.15;

“designated member”;

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

(a) the corporation is not, at any time in the taxation year, a member of the particular partnership; and

(b) at any time in the taxation year,

i. one of the corporation’s shareholders holds a direct or indirect interest in the particular partnership, or

ii. if subparagraph i does not apply, the corporation does not deal at arm’s length with a person that holds a direct or indirect interest in the particular partnership, and it may not be considered that all or substantially all of the corporation’s income from an eligible business for the year is from the provision of services or property to persons with which the corporation deals at arm’s length or to partnerships (other than the particular partnership) with which the corporation deals at arm’s length, other than a partnership in which a person that does not deal at arm’s length with the corporation holds a direct or indirect interest;

“eligibility date”;

“eligibility date” of a corporation means

(a) where the corporation carries on or may carry on its business in an information technology development centre, 26 March 1997;

(b) where the corporation carries on or may carry on its business in a new economy centre, 10 March 1999; and

(c) where the corporation carries on or may carry on its business in a biotechnology development centre, 30 March 2001;

“eligibility period”;

“eligibility period” of a corporation means the five-year period that begins on the day of coming into force of the certificate referred to in paragraph a of section 771.12 that was issued in its respect or, if it is later, on the corporation’s

eligibility date, unless the corporation ceases to be an exempt corporation,

(a) at the beginning of a particular taxation year following an acquisition of control referred to in subparagraph *f* of the first paragraph of section 771.13 that occurred in the preceding taxation year and before the end of the five-year period, in which case “eligibility period” means the part of the five-year period that ends immediately before the acquisition of control;

(b) at the beginning of a particular taxation year following an election by the corporation under subparagraph *g* of the first paragraph of section 771.13 to become a specified corporation from a particular day of the preceding taxation year and before the end of the five-year period, in which case “eligibility period” means the part of the five-year period that ends the day before that particular day; or

(c) in a particular taxation year, other than the one referred to in paragraph *a* or *b*, and before the end of the five-year period, in which case “eligibility period” means the part of the five-year period that ends on the last day of the taxation year preceding the particular year;

“eligible business”;

“eligible business”, in relation to any business carried on by a corporation, means any business carried on by a corporation other than a specified investment business or a personal services business and includes, except for the purposes of subparagraph *a* of the second paragraph of section 771.6, subparagraph *d* of the first paragraph of section 771.8.3 and subparagraph *i* of subparagraph *c* of the second paragraph of section 771.8.5, an adventure or concern in the nature of trade;

“eligible commercialization business”;

“eligible commercialization business” of a corporation, at any time, means an eligible business in respect of which the corporation holds a qualification certificate that was issued by the Minister of Economy and Innovation and that is valid at that time;

“eligible institute”;

“eligible institute” means an eligible public research centre or an eligible university entity, within the meaning of paragraphs *a.1* and *f* of section 1029.8.1;

“exempt corporation”;

“exempt corporation” has the meaning assigned by sections 771.12 and 771.13;

“exemption period”;

“exemption period” of a corporation means the period that begins at the beginning of the corporation’s first taxation year and ends on the earlier of

(a) the last day of the five-year period that begins at the beginning of the corporation’s first taxation year, and

(b) the last day of the taxation year preceding the taxation year in which the corporation ceases to be a qualified corporation;

“financial institution”;

“financial institution” means a corporation referred to in paragraph *a* of section 1132;

“information technology development centre”;

“information technology development centre” means a building designated as such by the Minister of Finance;

“manufacturing corporation”;

“manufacturing corporation” for a taxation year that begins before 1 January 2017 means a corporation whose proportion of manufacturing or processing activities for the taxation year is greater than 25%;

“new economy centre”;

“new economy centre” means one or more buildings within the same region that are designated by Investissement Québec as constituting a marketplace for the new economy;

“oil refining corporation”;

“oil refining corporation” for a taxation year means a corporation that, at any time in the year after 31 May 2007, carries on an oil refining business or is the owner or lessee of property used in the carrying on of such a business by another corporation, a partnership or a trust with which the corporation is associated;

“primary and manufacturing sectors corporation”;

“primary and manufacturing sectors corporation” for a taxation year that begins after 31 December 2016 means a corporation whose proportion of primary and manufacturing sectors activities for the taxation year is greater than 25%;

“proportion of primary and manufacturing sectors activities”;

“proportion of primary and manufacturing sectors activities” of a corporation for a taxation year means the prescribed proportion;

“proportion of the manufacturing or processing activities”;

“proportion of the manufacturing or processing activities” of a corporation for a taxation year means the proportion that the amount determined in respect of the corporation for the year under paragraph *a* of section 5200 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is of the amount determined in respect of the corporation for the year under paragraph *b* of section 5200 of those Regulations;

“qualified corporation”;

“qualified corporation” has the meaning assigned by sections 771.5 to 771.7;

“specified corporate income”;

“specified corporate income”, of a corporation for a taxation year, means the lesser of the amount that the Minister determines to be reasonable in the circumstances and the lesser of

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

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

ii. it may not be considered that all or substantially all of the corporation's income for the year from an eligible business is from the provision of services or property to persons (other than the private corporation) with which the corporation deals at arm's length or to partnerships with which the corporation deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest; and

(b) the aggregate of all amounts each of which is the portion of the business limit of a private corporation described in paragraph *a* for a taxation year that the private corporation assigns to the corporation in accordance with section 771.2.1.4.2;

“specified corporation”;

“specified corporation” has the meaning assigned by section 1029.8.36.0.17;

“specified investment business”;

“specified investment business” carried on by a corporation in a taxation year means a business, other than a business carried on by a savings and credit union or a business of leasing property other than immovable property, the principal purpose of which is to derive income from property, including interest, dividends, rents or royalties, unless the corporation employs in the business throughout the year more than five full-time employees, or in the course of carrying on an eligible business, any other corporation associated with it provides financial, administrative, maintenance, managerial or other similar services to the corporation in the year and the corporation could reasonably be expected to require more than five full-time employees if those services had not been provided;

“specified partnership business limit”;

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

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

“specified partnership income”;

“specified partnership income” of a corporation for a taxation year means the aggregate of

(a) the aggregate of all amounts each of which is an amount, in respect of a partnership of which the corporation is a member or a designated member in the year that would be a primary and manufacturing sectors corporation for the year if the partnership were a corporation for its last fiscal period that ends in the year, if that fiscal period were its taxation year and if its proportion of primary and manufacturing sectors activities for the year were determined without reference to the activities of any other partnership of which it

is a member, or that is a partnership described in section 771.2.1.2.2 for the year, equal to the least of

i. the aggregate of all amounts each of which is an amount, in respect of an eligible business carried on in Canada by the corporation as a member, or a designated member, of the partnership, equal to the amount by which the aggregate of all amounts each of which is the corporation's share of the income (determined in accordance with Title XI of Book III) of the partnership from the business for a fiscal period of the business that ends in the year, an amount of the corporation's particular income for the year from the provision (directly or indirectly, in any manner whatever) of services or property to the partnership, or an amount included in computing the corporation's income for the year under any of sections 217.19, 217.20 and 217.28 in respect of the business exceeds the aggregate of all amounts each of which is an amount deducted in computing the corporation's income for the year from the business (other than an amount that was deducted by the partnership in computing its income from the business or in computing the corporation's particular income) or an amount deducted in that computation for the year in respect of the business under section 217.21 or 217.27,

ii. where the corporation is a member of the partnership, the corporation's specified partnership business limit for the year and, where the corporation is a designated member of the partnership, the aggregate of all amounts assigned to it in accordance with section 771.2.1.4.3 for the year or, if no such amounts have been assigned, nil, and

iii. nil, where the corporation is (directly or indirectly, through one or more other partnerships) a member, or a designated member, of the partnership in the year and the partnership provides services or property to either

(1) a private corporation (directly or indirectly, in any manner whatever) in the year, if the corporation (or one of its shareholders) or a person who does not deal at arm's length with the corporation (or one of its shareholders) holds a direct or indirect interest in the private corporation, and if it may not be considered that all or substantially all of the partnership's income for the year from an eligible business is from the provision of services or property to persons (other than the private corporation) that deal at arm's length with the partnership or with any person that holds a direct or indirect interest in the partnership or to other partnerships with which the partnership deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest, or

(2) a particular partnership (directly or indirectly, in any manner whatever) in the year, if the corporation (or one of its shareholders) does not deal at arm's length with the particular partnership or with a person that holds a direct or indirect interest in the particular partnership, and if it may not be considered that all or substantially all of the

partnership's income for the year from an eligible business is from the provision of services or property to persons that deal at arm's length with the partnership or with any person that holds a direct or indirect interest in the partnership or to other partnerships (other than the particular partnership) with which the partnership deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest; and

(b) the lesser of

i. the aggregate of the amounts determined in respect of the corporation for the year under subparagraphs i and ii of paragraph *a* of section 771.2.1.2, and

ii. the aggregate of all amounts each of which is an amount, in respect of a partnership of which the corporation is a member or a designated member in the year, equal to the amount by which the amount determined in respect of the partnership for the year under subparagraph i of paragraph *a* exceeds the amount determined in respect of the partnership for the year under subparagraph ii of that paragraph *a*, according to whether the corporation is a member or a designated member of the partnership;

“specified partnership loss”;

“specified partnership loss” of a corporation for a taxation year means the aggregate of all amounts each of which is an amount, in respect of a partnership of which the corporation is a member in the year that would be a primary and manufacturing sectors corporation for the year if the partnership were a corporation for its last fiscal period that ends in the year, if that fiscal period were its taxation year and if its proportion of primary and manufacturing sectors activities for the year were determined without reference to the activities of any other partnership of which it is a member, or that is a partnership described in section 771.2.1.2.2 for the year, equal to the aggregate of

(a) the aggregate of all amounts each of which is the corporation's share of the loss, determined in accordance with Title XI of Book III, of the partnership for a fiscal period that ends in the year from an eligible business carried on in Canada by the corporation as a member of the partnership; and

(b) the aggregate of all amounts each of which is the amount by which the aggregate of all amounts each of which is an amount deducted in computing the corporation's income for the year from an eligible business carried on in Canada by the corporation as a member of the partnership, other than an amount that was deducted by the partnership in computing its income from the business, exceeds the aggregate of all amounts each of which is the corporation's share of the income, determined in accordance with Title XI of Book III, of the partnership from the business for a fiscal period that ends in the year;

“tax-free period”.

“tax-free period” of a corporation means the period beginning at the time of its incorporation and ending

(a) on the last day of the ten-year period beginning at that time; or

(b) if it is earlier than the day referred to in paragraph *a*, on the last day of the taxation year that precedes the taxation year in which the corporation ceases to be a corporation dedicated to the commercialization of intellectual property.

Interpretation.

For the purposes of the definition of “information technology development centre” in the first paragraph, premises designated by Investissement Québec are deemed to be part of a building referred to in that definition.

New economy centre.

For the purposes of the definition of “new economy centre” in the first paragraph, premises designated by Investissement Québec are deemed to form part of a building referred to in that definition.

Restriction.

Despite the definition of “eligibility period” in the first paragraph, the eligibility period of a corporation does not include any day in a taxation year for which the corporation is authorized by Investissement Québec to carry on its business outside the information technology development centre, the new economy centre or the biotechnology development centre that is mentioned in the certificate referred to in paragraph *a* of section 771.12, if, during that day, none of the activities of its business are carried on in Québec.

Formula elements.

In the formula in the definition of “specified partnership business limit” in the first paragraph,

(a) A is the aggregate of all amounts each of which is the person's share of the income (determined in accordance with Title XI of Book III) of a partnership of which the person is a member from an eligible business carried on in Canada for a fiscal period ending in the year;

(b) B is the aggregate of all amounts each of which is the partnership's income from an eligible business carried on in Canada for a fiscal period referred to in subparagraph i of paragraph *a* of the definition of “specified partnership income” in the first paragraph;

(c) C is the lesser of the business limit specified in the first paragraph of section 771.2.1.3 for a corporation that is not associated in a taxation year with one or more other Canadian-controlled private corporations and the proportion

of that business limit that the number of days in a fiscal period of the partnership that ends in the year is of 365; and

(d) D is the aggregate of all amounts each of which is an amount that the person assigns in accordance with section 771.2.1.4.3.

Definition of “oil refining corporation”.

For the purposes of the definition of “oil refining corporation” in the first paragraph, the following rules apply for the purpose of determining whether a corporation is associated with a partnership or a trust at any time:

(a) a partnership is deemed to be a corporation the taxation year of which corresponds to its fiscal period and all the voting shares in the capital stock of which are owned at that time by each member of the partnership in a proportion equal to the agreed proportion in respect of the member for the partnership’s fiscal period that includes that time; and

(b) a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries (in this subparagraph *b* referred to as the “distribution date”), and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) if any such beneficiary’s share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, and if that time occurs before the distribution date, are owned at that time by the beneficiary, and

(2) if subparagraph 1 does not apply and if that time occurs before the distribution date, are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. if a beneficiary’s share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at that time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at that time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at that time by the person referred to in that section from whom a property of the trust or a property for which it was substituted was directly or indirectly received.

History: 1981, c. 12, s. 9; 1987, c. 21, s. 28; 1989, c. 5, s. 118; 1992, c. 1, s. 66; 1995, c. 63, s. 68; 1997, c. 3, s. 71; 1997, c. 85, s. 153; 1998, c. 17, s. 64; 1999, c. 83, s. 102; 2000, c. 39, s. 76; 2001, c. 51, s. 72; 2001, c. 69, s. 12; 2002, c. 9, s. 20; 2003, c. 9, s. 98; 2004, c. 21, s. 201; 2005, c. 23, s. 103; 2005, c. 38, s. 172; 2007, c. 12, s. 86; 2009, c. 5, s. 312; 2009, c. 15, s. 150; 2010, c. 5, s. 67; 2010, c. 25, s. 77; 2015, c. 21, s. 312; 2015, c. 24, s. 109; 2017, c. 1, s. 212; 2017, c. 29, s. 155; 2019, c. 14, s. 240; 2020, c. 16, s. 115.

Interpretation Bulletins: IMP. 135.2-1/R1.

Corresponding Federal Provision: 125(7).

Income or loss from an eligible business.

771.111. In this Title, the income or loss of a corporation for a taxation year from an eligible business carried on by it means the aggregate of

(a) the income or loss of the corporation for the year from the business, including the income or loss of the corporation for the year that is incident to or pertains to that business or from any property that is used or held principally for the purpose of gaining an income from that business, but excluding a dividend that is deductible under Title VIII of Book IV or under section 845 in computing the taxable income of the corporation for the year; and

(b) the amount included under section 92.5.2 in computing the income of the corporation for the year.

History: 1987, c. 21, s. 28; 1989, c. 5, s. 118; 1993, c. 64, s. 83; 1994, c. 22, s. 267; 1997, c. 3, s. 71; 2000, c. 39, s. 77.

Corresponding Federal Provision: 125(7) “income of the corporation for the year from an active business”.

Replacement or revocation of a document.

771.111.1. In this Title, where a Minister other than the Minister of Revenue or a body replaces or revokes a certificate, qualification certificate or other similar document, the following rules apply in respect of the document, unless a more specific similar rule applies to it:

(a) the replaced document is null as of the date of its coming into force or of its deemed coming into force and the new document is deemed, unless it provides otherwise, to come into force as of that date and to have been issued at the time the replaced document was issued or is deemed to have been issued; and

(b) the revoked document is null as of the effective date of the revocation and is deemed not to have been issued, obtained or held as of that date.

Document deemed replaced.

Where a document is, without being replaced, amended by the revocation or replacement of any of its parts or in any other manner, the document before the amendment and the document as amended are deemed, for the purposes of this section, to be separate documents the first of which (referred to as the “replaced document”) has been replaced by the second (referred to as the “new document”).

Amendment for part of a period.

Where, in the circumstances described in the second paragraph, a document is amended only for a part of its period of validity, the new document is deemed to describe both the situation prevailing before the amendment, as proven by the content of the replaced document, and the new situation, as proven by the content of the new document.

History: 2012, c. 8, s. 133.

771.1.2. (Repealed).

History: 1989, c. 5, s. 119; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

771.1.3. (Repealed).

History: 1989, c. 5, s. 119; 1997, c. 3, s. 71; 1997, c. 85, s. 154; 2000, c. 39, s. 78.

771.1.4. (Repealed).

History: 1989, c. 5, s. 119; 1997, c. 3, s. 34; 1997, c. 85, s. 155; 2000, c. 39, s. 78.

771.1.4.1. (Repealed).

History: 1997, c. 85, s. 156; 2000, c. 5, s. 293; 2000, c. 39, s. 78.

771.1.5. (Repealed).

History: 1989, c. 5, s. 119; 1994, c. 22, s. 268; 1995, c. 63, s. 69; 1997, c. 3, s. 35; 1997, c. 85, s. 157; 1999, c. 83, s. 103; 2000, c. 39, s. 78.

771.1.5.1. (Repealed).

History: 1995, c. 63, s. 70; 1997, c. 3, s. 36; 2000, c. 39, s. 78.

771.1.5.2. (Repealed).

History: 1995, c. 63, s. 70; 1997, c. 3, s. 37; 1997, c. 14, s. 126; 2000, c. 39, s. 78.

771.1.5.3. (Repealed).

History: 1995, c. 63, s. 70; 1996, c. 39, s. 207; 1997, c. 3, s. 71; 1997, c. 14, s. 127; 1999, c. 83, s. 104; 2000, c. 39, s. 78.

771.1.6. (Repealed).

History: 1989, c. 5, s. 119; 1992, c. 1, s. 67; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

771.1.7. (Repealed).

History: 1989, c. 5, s. 119; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

771.1.8. (Repealed).

History: 1989, c. 5, s. 119; 1994, c. 22, s. 269; 1997, c. 3, s. 71; 1997, c. 14, s. 128; 2000, c. 39, s. 78.

771.1.9. (Repealed).

History: 1989, c. 5, s. 119; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

771.1.10. (Repealed).

History: 1989, c. 5, s. 119; 1992, c. 1, s. 68; 1993, c. 16, s. 287; 1997, c. 3, s. 71; 1997, c. 31, s. 82; 2000, c. 39, s. 78.

771.1.11. (Repealed).

History: 1989, c. 5, s. 119; 1993, c. 16, s. 288; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

771.2. (Repealed).

History: 1981, c. 12, s. 9; 1983, c. 44, s. 28; 1985, c. 25, s. 131; 1989, c. 5, s. 120.

771.2.1. (Repealed).

History: 1987, c. 21, s. 29; 1989, c. 5, s. 121; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

771.2.1.1. (Repealed).

History: 1992, c. 1, s. 69; 1997, c. 3, s. 71; 2000, c. 39, s. 78.

Determination of amount.

771.2.1.2. The amount that, for the purposes of paragraphs *d.2* to *d.4* and *h* of subsection 1 of section 771, is to be determined in respect of a corporation for a taxation year under this section is equal to the least of

(a) the amount by which the total of—where the corporation would be a primary and manufacturing sectors corporation for the year if its proportion of primary and manufacturing sectors activities for the year were determined without reference to the activities of any partnership of which it is a member or if it is described in section 771.2.1.2.1 for the year—the aggregate of all amounts each of which is the corporation’s income for the year from an eligible business carried on by the corporation in Canada (other than an amount referred to in section 771.2.1.2.0.1) or the corporation’s specified corporate income for the year and the corporation’s specified partnership income for the year exceeds the aggregate of

i. all amounts each of which is a loss of the corporation for the year from an eligible business carried on by it in Canada, other than a loss of the corporation for the year from a business carried on by it as a member of a partnership, and

ii. the specified partnership loss of the corporation for the year;

(b) the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount determined in respect of the corporation for the year under section 771.0.2.2 and the portion of the corporation's taxable income for the year that is not, because of an Act of the Legislature of Québec, subject to tax under this Part; and

(c) the corporation's business limit for the year.

History: 2005, c. 38, s. 173; 2015, c. 21, s. 313; 2017, c. 1, s. 213; 2017, c. 29, s. 156; 2019, c. 14, s. 241.

Corresponding Federal Provision: 125(1).

Amount other than income.

771.2.1.2.0.1. An amount to which paragraph *a* of section 771.2.1.2 refers in respect of a corporation for a taxation year means

(a) the amount referred to in subparagraph *i* of paragraph *a* of the definition of "specified partnership income" in the first paragraph of section 771.1 for the year;

(b) the amount referred to in paragraph *a* of the definition of "specified corporate income" in the first paragraph of section 771.1 for the year; or

(c) an amount that is paid or becomes payable to the corporation by another corporation with which it is associated and that is deemed under paragraph *a* of section 771.4 to be income of the corporation for the year from an eligible business carried on by the corporation, where the associated corporation is not a Canadian-controlled private corporation or is a Canadian-controlled private corporation that has made an election under the second paragraph of section 771.2.1.3 in respect of its taxation year that includes the time when the amount was paid or became payable.

History: 2019, c. 14, s. 242.

Corresponding Federal Provision: 125(1)(A), (B) et (C).

Hours of work criterion — corporations.

771.2.1.2.1. A corporation to which paragraph *a* of section 771.2.1.2 refers for a particular taxation year is a corporation in respect of which the number of remunerated hours referred to in either of the following subparagraphs exceeds 5,000:

(a) the number of remunerated hours determined in respect of the employees of the corporation for the particular year; or

(b) the number of remunerated hours determined in respect of the employees of the corporation and of those of the corporations with which the corporation is associated in the particular year, for the taxation years of those corporations

that ended in the calendar year preceding the calendar year in which the particular year ends.

Rules of application.

For the purposes of the first paragraph,

(a) the number of remunerated hours determined in respect of a person that may be taken into account for a week may not exceed 40;

(b) subject to the third paragraph, the remunerated hours may be taken into account only to the extent that they were paid; and

(c) the remunerated hours may be taken into account for a taxation year only to the extent that the expenditure relating to those hours was incurred in that year.

Clarification.

For the purposes of this section, a person who holds, directly or indirectly, shares of the capital stock of a corporation carrying more than 50% of the votes that could be cast under any circumstances at the annual meeting of shareholders of the corporation is considered to be an employee of the corporation and the unremunerated hours of work the person carries out in a week to actively engage in the corporation's activities are deemed to be remunerated hours in respect of that person for which the expenditure was incurred in that week, provided that the hours are recorded in a register that the corporation keeps in that respect and according to the formula

$$1.1 \times A.$$

Interpretation.

In the formula in the third paragraph, *A* is the number of unremunerated hours of work carried out by the person in a week, without exceeding 36.36.

Taxation year less than 365 days.

For the purposes of subparagraph *a* of the first paragraph, where the number of days in the corporation's particular taxation year is less than 365, the number of remunerated hours determined in respect of the corporation's employees in the particular year is deemed to be equal to the product obtained by multiplying that number otherwise determined by the proportion that 365 is of the number of days in the particular taxation year.

History: 2017, c. 1, s. 214; 2017, c. 29, s. 157.

Hours of work criterion — partnerships.

771.2.1.2.2. A partnership of which a corporation that is carrying on an eligible business in a taxation year as a member of the partnership is a member and to which paragraph *a* of the definition of "specified partnership

income” in the first paragraph of section 771.1 refers for the taxation year is a partnership whose number of remunerated hours determined in respect of its employees for a fiscal period that ends in the taxation year exceeds 5,000.

Rules of application.

For the purposes of this section,

(a) the number of remunerated hours determined in respect of a person that may be taken into account for a week may not exceed 40;

(b) the remunerated hours may be taken into account only to the extent that they were paid; and

(c) the remunerated hours may be taken into account for a fiscal period only to the extent that the expenditure relating to those hours was incurred in that fiscal period.

History: 2017, c. 1, s. 214; 2017, c. 29, s. 157; 2019, c. 14, s. 243.

Business limit.

771.2.1.3. In this Title, a corporation’s business limit for a taxation year is equal to \$500,000 unless the corporation is associated in the year with one or more other Canadian-controlled private corporations in which case, except as otherwise provided in this Title, its business limit for the year is equal to zero.

Association with third corporation.

For the purposes of the first paragraph and sections 771.2.1.4 to 771.2.1.8, the following rules apply:

(a) section 21.21 does not apply to deem two corporations to be associated with each other at any time because they are associated, or deemed to be associated under section 21.21, at that time with the same corporation (in this paragraph referred to as the “third corporation”), if the third corporation is not a Canadian-controlled private corporation at that time or is a Canadian-controlled private corporation that has made a valid election under subsection 2 of section 256 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in relation to its taxation year that includes that time; and

(b) where the third corporation has made the valid election referred to in subparagraph *a*, its business limit for its taxation year that includes that time is deemed to be equal to zero.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 2 of section 256 of the Income Tax Act or in relation to an election made under the second paragraph before 20 December 2006.

History: 2005, c. 38, s. 173; 2009, c. 5, s. 313; 2010, c. 5, s. 68; 2019, c. 14, s. 244.

Corresponding Federal Provision: 125(2) et 256(2)(b).

Allocation of a business limit.

771.2.1.4. Despite the first paragraph of section 771.2.1.3, if a Canadian-controlled private corporation is associated with one or more other Canadian-controlled private corporations and all of those corporations have filed with the Minister in prescribed form an agreement whereby, for the purposes of this Title, they allocate a percentage to one or more of them for the year, the business limit for the year of each of the corporations is equal to the product obtained by multiplying \$500,000 by the percentage so allocated to it, if the percentage or the aggregate of the percentages so allocated, as the case may be, does not exceed 100%, and to zero, in any other case.

History: 2005, c. 38, s. 173; 2010, c. 5, s. 69.

Corresponding Federal Provision: 125(3).

Business limit.

771.2.1.4.1. The business limit of a corporation for a taxation year, determined under the first paragraph of section 771.2.1.3 or under section 771.2.1.4 or 771.2.1.5, is reduced by the total of all amounts each of which is the portion, if any, of the business limit that the corporation assigns to another corporation in accordance with section 771.2.1.4.2.

History: 2019, c. 14, s. 245.

Corresponding Federal Provision: 125(3.1).

Assignment.

771.2.1.4.2. For the purposes of this Title, a Canadian-controlled private corporation (in this section referred to as the “first corporation”) may assign all or any portion of its business limit, determined under the first paragraph of section 771.2.1.3 or any of sections 771.2.1.4 to 771.2.1.6, for a taxation year of the first corporation to another Canadian-controlled private corporation (in this section referred to as the “second corporation”) for a taxation year of the second corporation if

(a) the second corporation has an amount of income, for its taxation year, referred to in paragraph *a* of the definition of “specified corporate income” in the first paragraph of section 771.1 from the provision of services or property directly to the first corporation;

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

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

$A - B$; and

(d) the first corporation and the second corporation each file a prescribed form with the Minister in their respective fiscal returns for their respective taxation years.

Formula elements.

In the formula in the first paragraph,

(a) A is the amount of income to which subparagraph *a* of the first paragraph refers; and

(b) B is the portion of the amount of income to which subparagraph *a* of the first paragraph refers that is deductible by the first corporation in respect of the amount of income referred to in paragraph *a* or *b* of section 771.2.1.2.0.1 for the taxation year.

History: 2019, c. 14, s. 245.

Corresponding Federal Provision: 125(3.2).

Assignment — specified partnership business limit.

771.2.1.4.3. For the purposes of the definition of “specified partnership income” in the first paragraph of section 771.1, a person that is a member of a partnership in a taxation year may assign to a designated member of the partnership—for a taxation year of the designated member—all or any portion (determined without reference to this assignment) of the person’s specified partnership business limit in respect of the person’s taxation year if

(a) the person is described in paragraph *b* of the definition of “designated member” in the first paragraph of section 771.1 in respect of the designated member in the designated member’s taxation year;

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

(c) the designated member and the person each file a prescribed form with the Minister in their respective fiscal returns for their respective taxation years.

History: 2019, c. 14, s. 245.

Corresponding Federal Provision: 125(8).

Allocation of a business limit by the Minister.

771.2.1.5. If any of the Canadian-controlled private corporations referred to in section 771.2.1.4 fails to file with the Minister an agreement referred to in that section within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this Title, allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, is to be equal, despite the first paragraph of section 771.2.1.3, to the lesser of the amounts that would be the business limit for the year of each of the corporations if none of them was associated with another corporation in the year and if no reference were made to sections 771.2.1.7 and 771.2.1.8.

History: 2005, c. 38, s. 173; 2010, c. 5, s. 69.

Corresponding Federal Provision: 125(4).**Associated corporation having an establishment in a province other than Québec.**

771.2.1.6. If any of the Canadian-controlled private corporations that are associated with each other in a taxation year has, in that year, an establishment in a province other than Québec and a percentage or an amount is allocated, in accordance with subsection 3 or 4 of section 125 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to one or more of those corporations for the year,

(a) the percentage allocated to each of the corporations for the year in accordance with section 771.2.1.4 is to be equal to the percentage that was allocated to it in accordance with that subsection 3 for the year; and

(b) the amount allocated to each of the corporations for the year in accordance with section 771.2.1.5 is to be equal to the amount obtained by multiplying the lesser of the amounts that would be the business limit for the year of each of the corporations if none of them was associated with another corporation in the year and if no reference were made to sections 771.2.1.7 and 771.2.1.8, by the proportion that the amount allocated for the year to the corporation in accordance with subsection 4 of section 125 of the Income Tax Act is of the aggregate of the amounts allocated for the year, in accordance with that subsection 4, to each of the corporations.

Filing of an agreement.

If, for a taxation year, a corporation referred to in the first paragraph has filed an agreement with the Minister of National Revenue in accordance with subsection 3 of section 125 of the Income Tax Act, the corporation shall file with the Minister, for that year, a copy of the agreement.

History: 2005, c. 38, s. 173; 2010, c. 5, s. 70.

Corporation having an establishment in another province.

771.2.1.6.1. Where a Canadian-controlled private corporation assigns all or any portion of its business limit for a taxation year to another Canadian controlled private corporation in accordance with subsection 3.2 of section 125 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and either Canadian-controlled private corporation has, in the taxation year, an establishment in a province other than Québec, the corporation is deemed to assign to the other corporation for the year, in accordance with section 771.2.1.4.2, an amount equal to the amount it assigns to the other corporation in accordance with that subsection 3.2.

Copies.

Chapter V.2 of Title II of Book I applies in relation to a form filed with the Minister of National Revenue in accordance

with paragraph *d* of subsection 3.2 of section 125 of the Income Tax Act.

History: 2019, c. 14, s. 246.

Person having an establishment in another province.

771.2.1.6.2. Where a person that is a member of a partnership in a taxation year assigns all or any portion of its specified partnership business limit, in respect of that taxation year, to a designated member of the partnership in accordance with subsection 8 of section 125 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the person or the designated member has an establishment in a province other than Québec, the person is deemed to assign to the designated member in accordance with section 771.2.1.4.3, in respect of the taxation year, an amount equal to the amount it assigns to the designated member in accordance with that subsection 8.

Copies.

Chapter V.2 of Title II of Book I applies in relation to a form filed with the Minister of National Revenue in accordance with paragraph *c* of subsection 8 of section 125 of the Income Tax Act.

History: 2019, c. 14, s. 246.

Determination of the business limit in certain cases.

771.2.1.7. Despite the first paragraph of section 771.2.1.3 and sections 771.2.1.4, 771.2.1.5 and 771.2.1.6, the following rules apply:

(a) if a Canadian-controlled private corporation, in this paragraph referred to as the “first corporation”, has more than one taxation year ending in the same calendar year and is associated in two or more of those taxation years with another Canadian-controlled private corporation that has a taxation year ending in that calendar year, the business limit of the first corporation for each particular taxation year that ends in the calendar year in which it is associated with the other corporation and that ends after the first taxation year ending in that calendar year is, subject to subparagraph *b*, an amount equal to the lesser of

- i. its business limit for the first taxation year ending in the calendar year, determined in accordance with section 771.2.1.4 or 771.2.1.5, and
- ii. its business limit for the particular taxation year ending in the calendar year, determined in accordance with section 771.2.1.4 or 771.2.1.5; and

(b) if a Canadian-controlled private corporation has a taxation year of fewer than 51 weeks, its business limit for the year is that proportion of its business limit for the year, determined without reference to this paragraph and section 771.2.1.8, that the number of days in the year is of 365.

Transitional application.

However, if subparagraph *a* of the first paragraph applies to a particular taxation year 2009 or 2010 of a corporation that ends after 19 March 2009, subparagraph *i* of that subparagraph *a* is to be read as follows:

“i. the amount that would be its business limit for the first taxation year ending in the calendar year, determined in accordance with section 771.2.1.4 or 771.2.1.5, if the reference to the amount in dollars that is provided for in section 771.2.1.4, as it applies in respect of that first taxation year, were replaced by a reference to the amount in dollars that is provided for in that section, as it applies in respect of the particular taxation year ending in the calendar year, and”.

History: 2005, c. 38, s. 173; 2010, c. 5, s. 71; 2019, c. 14, s. 247.

Corresponding Federal Provision: 125(5).

Reduction of the business limit.

771.2.1.8. Despite the first paragraph of section 771.2.1.3 and sections 771.2.1.4, 771.2.1.5, 771.2.1.6 and 771.2.1.7, a Canadian-controlled private corporation’s business limit for a taxation year ending in a calendar year is equal to the amount by which its business limit for the taxation year, determined without reference to this section, exceeds the greater of

(a) the amount determined by the formula

$A \times [(B - \$10,000,000) / \$5,000,000]$; and

(b) the amount determined by the formula

$A / \$500,000 \times 5 (C - \$50,000)$.

Interpretation.

In the formulas in the first paragraph,

(a) *A* is the corporation’s business limit for the taxation year, determined without reference to this section;

(b) *B* is

i. if the corporation is not associated with any other corporation in the taxation year, the corporation’s paid-up capital determined as provided in section 771.2.1.9 of its preceding taxation year or, if the corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of the fiscal period in accordance with generally accepted accounting principles, and

ii. if the corporation is associated with one or more other corporations in the taxation year, the aggregate of all amounts each of which is, for the corporation or any of the other corporations, the amount of its paid-up capital determined as provided in section 771.2.1.9 for its last taxation year ending in the preceding calendar year or, if the corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of the fiscal

period in accordance with generally accepted accounting principles, and

(c) C is the total of all amounts each of which is the adjusted aggregate investment income of the corporation, or of a corporation with which it is associated at any time in the taxation year, for each taxation year of the corporation, or associated corporation, as the case may be, that ends in the preceding calendar year.

Corporations deemed to be associated.

For the purposes of subparagraph *c* of the second paragraph, a particular corporation and another corporation are deemed to be associated with each other at a particular time if

(a) the particular corporation transfers or lends a property at any time, either directly or indirectly, by means of a trust or otherwise, to the other corporation;

(b) the other corporation is, at the particular time, related to the particular corporation but is not associated with it; and

(c) it may reasonably be considered that one of the reasons the transfer or loan was made was to reduce the amount determined under subparagraph *c* of the second paragraph in respect of the particular corporation, or of any corporation with which it is associated, for a taxation year.

History: 2005, c. 38, s. 173; 2019, c. 14, s. 248; 2020, c. 16, s. 116.

Corresponding Federal Provision: 125(5.1).

Paid-up capital of a corporation.

771.2.1.9. For the purposes of section 771.2.1.8, the paid-up capital of a corporation for a taxation year is equal to

(a) in respect of a financial institution, twice its paid-up capital determined for that year in accordance with Title II of Book III of Part IV;

(b) in respect of a corporation referred to in paragraph *c* of section 1132, a mining corporation that has not reached the production stage or a cooperative, its paid-up capital that would be determined for that year in accordance with Title I of Book III of Part IV if no reference were made to section 1138.2.6; and

(c) in respect of an insurance corporation, other than a corporation referred to in paragraph *a* or *b*, twice its paid-up capital that would be determined for that year in accordance with Title II of Book III of Part IV, if the corporation were a bank and if paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136.

History: 2005, c. 38, s. 173; 2009, c. 5, s. 314; 2009, c. 15, s. 151.

Rule for computing the specified partnership income.

771.2.1.10. If in a taxation year a corporation is a member of a particular partnership and the corporation or a

corporation with which it is associated in the year is a member of one or more other partnerships in the year and it may reasonably be considered that one of the main reasons for the separate existence of the partnerships is to increase for a corporation the amount of the deduction determined in respect of a Canadian-controlled private corporation under any of paragraphs *d.2* to *d.4* of subsection 1 of section 771, the specified partnership income of the corporation for the year is, for the purposes of this Title, to be computed in respect of those partnerships as if all amounts each of which is the income of one of the partnerships for a fiscal period that ends in the year from an eligible business carried on by it in Canada were equal to zero except for the greatest of those amounts.

History: 2005, c. 38, s. 173; 2015, c. 21, s. 314; 2017, c. 1, s. 215.

Corresponding Federal Provision: 125(6).

Corporation deemed to be a member of a partnership.

771.2.1.11. For the purposes of this Title, a corporation that is a member, or is deemed under this section to be a member, of a partnership that is itself a member of another partnership is deemed to be a member of that other partnership and the corporation's share of the income of the other partnership for a fiscal period is deemed to be equal to the amount of such income to which the corporation is directly or indirectly entitled.

History: 2005, c. 38, s. 173.

Corresponding Federal Provision: 125(6.1).

Income of a partnership deemed to be equal to zero.

771.2.1.12. Despite any other provision of this Title, if a corporation is a member of a partnership that was controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada, by one or more public corporations other than a prescribed venture capital corporation, or by any combination thereof at any time in its fiscal period ending in a taxation year of the corporation, the income of the partnership for that fiscal period from an eligible business carried on in Canada is, for the purpose of computing the specified partnership income of the corporation for the year, deemed to be equal to zero.

History: 2005, c. 38, s. 173.

Corresponding Federal Provision: 125(6.2).

Control of a partnership.

771.2.1.13. For the purposes of section 771.2.1.12, a partnership is deemed to be controlled by one or more persons at any time if the share of that person or the aggregate of the shares of those persons of the income of the partnership from a particular source for the fiscal period of the partnership that includes that time exceeds one half of the income of the partnership from that source for that fiscal period.

History: 2005, c. 38, s. 173.

Corresponding Federal Provision: 125(6.3).

Anti-avoidance.

771.2.1.14. Where a corporation provides services or property to a person or partnership that has a direct or indirect interest in a particular corporation or a direct or indirect interest in a particular partnership and one of the reasons for the provision of the services or property to the person or partnership, instead of to the particular corporation or the particular partnership, is to avoid the application of paragraph *a* of section 771.2.1.2 (where the portion of that paragraph before subparagraph *i* refers to the specified partnership income or specified corporate income of the corporation), in respect of its income from the provision of the services or property, no portion of that income may be considered for the purpose of computing the excess amount provided for in that paragraph *a*.

History: 2019, c. 14, s. 249.

Corresponding Federal Provision: 125(9).

Computational rule — specified corporate income.

771.2.1.15. For the purpose of determining an amount for a taxation year in respect of a corporation under paragraph *a* of section 771.2.1.2 (where that paragraph refers to the specified corporate income of the corporation) or under paragraph *b* of section 771.2.1.2.0.1, an amount of income is to be excluded if

(*a*) the amount is income of the corporation from an eligible business for the year from the provision of services or property to another corporation with which the corporation is associated (in paragraph *b* referred to as the “associated corporation”); and

(*b*) the amount is not deductible by the associated corporation for its taxation year in respect of a particular amount included in computing its income that is referred to in any of paragraphs *a* to *c* of section 771.2.1.2.0.1 or that may reasonably be considered as being attributable to or derived from an amount referred to in that paragraph *c*.

History: 2019, c. 14, s. 249.

Corresponding Federal Provision: 125(10).

International financial centre.

771.2.2. For the purposes of sections 771.2.1.2 and 771.8.3 in respect of a corporation for a taxation year, the following rules apply:

(*a*) the excess amount described in paragraph *a* of section 771.2.1.2 is to be computed as if the corporation had, for the year,

i. realized an additional income from an eligible business it carries on in Canada, equal to the second aggregate that is mentioned in the first paragraph of section 52 of the Act respecting international financial centres (chapter C-8.3) and determined in its respect for the year under that paragraph, and

ii. sustained an additional loss from an eligible business it carries on in Canada, equal to the first aggregate that is mentioned in the first paragraph of section 52 of the Act respecting international financial centres and determined in its respect for the year under that paragraph; and

(*b*) the excess amount described in subparagraph *d* of the first paragraph of section 771.8.3 is to be computed as if the corporation had, for the year,

i. realized an additional income from an eligible business it carries on in Canada, equal to the second aggregate that is mentioned in the first paragraph of section 52 of the Act respecting international financial centres, which, if the percentage specified in computing that aggregate were equal to 100%, would be determined in its respect for the year under that paragraph, and

ii. sustained an additional loss from an eligible business it carries on in Canada, equal to the first aggregate that is mentioned in the first paragraph of section 52 of the Act respecting international financial centres, which, if the percentage specified in computing that aggregate were equal to 100%, would be determined in its respect for the year under that paragraph.

History: 1987, c. 21, s. 29; 1989, c. 5, s. 121; 1992, c. 1, s. 70; 1995, c. 63, s. 71; 1997, c. 3, s. 71; 1997, c. 85, s. 158; 2000, c. 39, s. 79; 2004, c. 21, s. 202; 2005, c. 38, s. 174; 2009, c. 5, s. 315.

771.2.3. (Repealed).

History: 1999, c. 83, s. 105; 2000, c. 39, s. 80; 2005, c. 38, s. 175; 2009, c. 5, s. 316; 2012, c. 8, s. 134.

Carrying on of a recognized business.

771.2.4. For the purposes of sections 771.2.1.2 and 771.8.3, the amount by which the income of a corporation for a taxation year from an eligible business carried on by it exceeds its loss for the year from such a business shall be computed as if the amount determined under subparagraph *a* of the first paragraph of section 737.18.11 in respect of the corporation for the year and the amount determined in respect of the corporation for the year under subparagraph *b* of that paragraph were nil.

History: 2000, c. 39, s. 81; 2005, c. 38, s. 176; 2009, c. 5, s. 317.

771.2.5. (Repealed).

History: 2002, c. 9, s. 21; 2005, c. 38, s. 176; 2009, c. 5, s. 317; 2019, c. 14, s. 250.

Large investment project.

771.2.5.1. For the purposes of section 771.2.1.2, the amount by which a corporation’s income for a taxation year from a qualified business it carries on exceeds its loss for the year from such a business must be computed as if the amounts determined under subparagraphs *a* and *b* of the

second paragraph of section 737.18.17.5 in respect of the corporation for the year and the amounts determined in respect of a partnership of which it is a member at the end of a fiscal period of the partnership that ends in the year, in accordance with subparagraphs *d* and *e* of that paragraph, in relation to a large investment project of the corporation or partnership, as the case may be, within the meaning of the first paragraph of section 737.18.17.1, in respect of which the Minister of Finance issued a certificate for the corporation's taxation year or the partnership's fiscal period, were, in the proportion determined in the second paragraph, nil.

Proportion.

The proportion to which the first paragraph refers is determined by the formula

A/B.

Interpretation.

In the formula in the second paragraph,

(a) A is 1, unless the amount that would be deductible in computing the corporation's taxable income for the year under section 737.18.17.5 if no reference were made to section 737.18.17.6 exceeds the particular amount that is deductible in computing that taxable income under section 737.18.17.5, in which case it is the particular amount; and

(b) B is 1, unless the particular amount that would be deductible in computing the corporation's taxable income for the year under section 737.18.17.5 if no reference were made to section 737.18.17.6 exceeds the amount that is deductible in computing that taxable income under section 737.18.17.5, in which case it is the particular amount.

History: 2015, c. 21, s. 315; 2019, c. 14, s. 251.

Manufacturing or processing business carried on in a resource region.

771.2.6. For the purposes of section 771.2.1.2, the amount by which the income of a corporation for a taxation year from an eligible business carried on by it exceeds its loss for the year from such a business shall be computed with reference to the following rules:

(a) the product obtained by multiplying the amount that is the income or portion of the income, as the case may be, of the corporation for the year, determined under subparagraph *a* of the second paragraph of section 737.18.26, by the proportion determined in the second paragraph is deemed to be nil; and

(b) the product obtained by multiplying the amount that is the loss or the portion of the loss, as the case may be, of the corporation for the year, determined under subparagraph *b* of the second paragraph of section 737.18.26, by the proportion determined in the second paragraph is deemed to be nil.

Formula.

The proportion to which the first paragraph refers is determined by the formula

$$75\% \times \{1 - [(A - \$20,000,000)/\$10,000,000]\} \times (1 - B) \times C/D.$$

Interpretation.

In the formula in the second paragraph,

(a) A is the greater of \$20,000,000 and the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24;

(b) B is the corporation's reduction factor for the year, within the meaning assigned by the first paragraph of section 737.18.18;

(c) C is

i. where the amount that would be deductible in computing the corporation's taxable income for the year under section 737.18.26 if no reference were made to section 737.18.26.1 exceeds the particular amount that is deductible in computing the corporation's taxable income for the year under section 737.18.26, the particular amount, and

ii. in any other case, 1; and

(d) D is,

i. where the particular amount that would be deductible in computing the corporation's taxable income for the year under section 737.18.26 if no reference were made to section 737.18.26.1 exceeds the amount that is deductible in computing the corporation's taxable income for the year under section 737.18.26, the particular amount, and

ii. in any other case, 1.

History: 2002, c. 40, s. 75; 2004, c. 21, s. 203; 2005, c. 38, s. 177; 2009, c. 5, s. 318; 2010, c. 25, s. 78.

Stock exchange or securities clearing-house.

771.2.7. For the purposes of sections 771.2.1.2 and 771.8.3, the amount by which the income of a corporation for a taxation year from an eligible business carried on by it exceeds its loss for the year from such a business shall be computed as if

(a) in the case of section 771.2.1.2, 75% of the amounts determined in accordance with subparagraphs *a* and *b* of the second paragraph of section 737.18.33 in respect of the corporation for the year were nil; and

(b) in the case of section 771.8.3, the amounts determined in accordance with subparagraphs *a* and *b* of the second

paragraph of section 737.18.33 in respect of the corporation for the year were nil.

History: 2003, c. 9, s. 99; 2004, c. 21, s. 204; 2005, c. 38, s. 178; 2009, c. 5, s. 319.

Amount payable by an associated corporation.

771.3. Where an amount is paid or becomes payable to a particular corporation by another corporation with which it is associated in any particular taxation year and where the particular corporation must otherwise include that amount in computing its income for the particular year from any property or specified investment business, the rules set forth in section 771.4 apply for the purposes of section 771.1.1.

History: 1984, c. 15, s. 179; 1985, c. 25, s. 131; 1986, c. 15, s. 119; 1987, c. 21, s. 30; 1989, c. 5, s. 121; 1991, c. 8, s. 49; 1997, c. 3, s. 71.

Corresponding Federal Provision: 129(6) before (a).

Rules.

771.4. The rules contemplated in section 771.3 are as follows:

(a) the portion of the amount contemplated in section 771.3 that is deductible in computing the income of the other corporation for a taxation year from an eligible business carried on by it is deemed to be income of the particular corporation for the particular year from an eligible business carried on by it;

(b) any outlay or expense, to the extent that that outlay or expense may reasonably be regarded as having been made or incurred by the particular corporation for the purpose of gaining the portion contemplated in paragraph *a*, is deemed to have been made or incurred for the purpose of gaining the income contemplated in paragraph *a*.

History: 1985, c. 25, s. 131; 1986, c. 15, s. 120; 1987, c. 21, s. 30; 1997, c. 3, s. 71; 1997, c. 85, s. 330.

Corresponding Federal Provision: 129(6)(b).

Qualified corporation.

771.5. Subject to sections 771.6 and 771.7, a corporation is a qualified corporation for a particular taxation year if

(a) its first taxation year began after 25 March 1997 but before 30 March 2004;

(b) it is not a corporation resulting from an amalgamation or a merger of several corporations;

(c) the particular year is included, in whole or in part, in the exemption period of the corporation;

(d) the corporation filed a return in prescribed form with the Minister on or before its filing-due date for its first taxation year;

(e) the corporation has not made an election under subparagraph *b* of the third paragraph of section 737.18.26.

History: 1987, c. 21, s. 31; 1992, c. 1, s. 71; 1995, c. 63, s. 72; 1997, c. 3, s. 71; 1997, c. 31, s. 83; 1997, c. 85, s. 159; 2000, c. 39, s. 82; 2002, c. 40, s. 76; 2005, c. 23, s. 104.

Late filing.

771.5.1. For the purposes of paragraph *d* of section 771.5, a return that has not been filed by the corporation within the time prescribed therefor is deemed to have been filed within that time if the return is filed, in prescribed form and along with a payment by the corporation of the penalty determined under the second paragraph, on or before the corporation's filing-due date for its taxation year in which the five-year period following the beginning of its first taxation year ends.

(a) in the case of a corporation whose first taxation year begins after 25 March 1997, for its taxation year in which the five-year period following the beginning of its first taxation year ends; and

(b) in any other case, for its third taxation year.

Penalty.

For the purposes of the first paragraph, the penalty that a corporation is required to pay with respect to the return contemplated therein is equal to the lesser of \$600 and the product obtained by multiplying \$50 by the number of months included, in whole or in part, in the period beginning on the day on which the time prescribed in paragraph *d* of section 771.5 expires and ending on the day on which the return is actually filed.

History: 1990, c. 7, s. 70; 1997, c. 3, s. 71; 1997, c. 31, s. 84; 1997, c. 85, s. 160; 2000, c. 39, s. 83.

Examination by Minister.

771.5.2. The Minister shall examine with dispatch every return filed with him under section 771.5.1, assess the penalty payable and send a notice of assessment to the corporation, which shall pay forthwith to the Minister the unpaid balance of the penalty.

History: 1990, c. 7, s. 70; 1997, c. 3, s. 71.

Restrictions.

771.6. A corporation is not a qualified corporation for a taxation year if, at any time in the period extending from the day of its incorporation to the end of the year, the corporation

(a) was associated with any other corporation;

(b) was a corporation other than a Canadian-controlled private corporation;

(c) carried on a personal services business;

(d) carried on an eligible business as a member of a partnership or as a co-participant in a joint venture with another person or a partnership;

(e) was a beneficiary under a trust other than a mutual fund trust; or

(f) carried on an eligible business principally as a result of acquiring or renting property from another person or a partnership who or which, at any time in the 12 months preceding that acquisition or rental, carried on a business in which he or it used that property and, by reason of that acquisition or rental, the corporation may reasonably be regarded as having continued to carry on the business or a part of the business of the other person or of the partnership.

Restriction.

Similarly, a corporation is not a qualified corporation for a taxation year if, for that year or a preceding taxation year,

(a) all of its activities in the year do not consist entirely or almost entirely in carrying on an eligible business; or

(b) its paid-up capital determined for the taxation year preceding the year or, where the corporation's year is its first fiscal period, on the basis of its financial statements prepared at the beginning of the fiscal period in accordance with generally accepted accounting principles, exceeds \$15,000,000.

Paid-up capital

For the purposes of subparagraph *b* of the second paragraph, the paid-up capital of a corporation is

(a) in respect of a financial institution, a corporation referred to in paragraph *c* of section 1132 or a mining corporation that has not reached the production stage, its paid-up capital that would be determined in accordance with Book III of Part IV if no reference were made to sections 1138.0.1, 1138.2.6 and 1141.3;

(b) in respect of an insurance corporation, other than a corporation referred to in subparagraph *a*, its paid-up capital that would be determined in accordance with Title II of Book III of Part IV, if the corporation were a bank, if paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136 and if no reference were made to section 1141.3; and

(c) in respect of a cooperative, its paid-up capital that would be determined in accordance with Title I of Book III of Part IV if no reference were made to sections 1138.0.1 and 1138.2.6.

History: 1987, c. 21, s. 31; 1991, c. 8, s. 50; 1993, c. 64, s. 84; 1995, c. 63, s. 73; 1996, c. 39, s. 208; 1997, c. 3, s. 38; 1997, c. 85, s. 161; 2000, c. 39, s. 84; 2003, c. 9, s. 100; 2005, c. 23, s. 105; 2009, c. 5, s. 320; 2009, c. 15, s. 152.

Presumption.

771.7. Where the business carried on in a taxation year by a corporation may reasonably be considered in fact to consist mainly in the continuance of one or several businesses or of a part of one or several businesses previously carried on by one or several other persons or partnerships and where, but for this section, the corporation would be a qualified corporation for that year or a subsequent taxation year, the corporation is deemed, if the Minister so decides, not to be a qualified corporation for those years.

History: 1987, c. 21, s. 31; 1995, c. 63, s. 261; 1996, c. 39, s. 273; 1997, c. 3, s. 71.

771.8. (Repealed).

History: 1987, c. 21, s. 31; 1988, c. 4, s. 65; 1989, c. 5, s. 122; 1990, c. 59, s. 295; 1995, c. 63, s. 74; 1997, c. 3, s. 71; 2000, c. 39, s. 85.

771.8.1. (Repealed).

History: 1992, c. 1, s. 72; 1993, c. 19, s. 62 [amended by 1995, c. 63, s. 532]; 1994, c. 22, s. 270 [amended by 1995, c. 63, s. 539]; 1995, c. 63, s. 75; 1997, c. 3, s. 71; 2000, c. 39, s. 85.

771.8.2. (Repealed).

History: 1995, c. 63, s. 76; 1997, c. 3, s. 71; 2000, c. 39, s. 85.

Amount to be determined for the purposes of s. 771.

771.8.3. The amount which, for the purposes of paragraph *h* of subsection 1 of section 771, is to be determined under this section in respect of a corporation for a taxation year is equal to 75% of the least of

(a) \$200,000;

(b) the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount determined in respect of the corporation for the year under section 771.0.2.2 and the amount, if any, of the corporation's taxable income for the year that is not, because of an Act of the Legislature of Québec, subject to tax under this Part; and

(c) (subparagraph repealed);

(d) the amount by which its income for the year from an eligible business carried on by it in Canada exceeds its loss for the year from such a business.

Taxation year including the last day of the exemption period or of less than 51 weeks.

However, the first paragraph shall be read,

(a) where the corporation's taxation year includes the last day of its exemption period, with "is equal to 75% of the least of", in the portion before subparagraph *a* thereof, replaced by "is equal to such proportion of 75% of the least

of the following amounts as the number of days in the year that are included in the corporation's exemption period is of the number of days in the year:";

(b) where the corporation's taxation year has less than 51 weeks, with the amount of \$200,000, in subparagraph *a* thereof, replaced by such proportion of that amount as the number of days in the year is of 365.

History: 1997, c. 85, s. 162; 2000, c. 39, s. 86; 2004, c. 21, s. 205.

771.8.4. *(Repealed).*

History: 1997, c. 85, s. 162; 2000, c. 39, s. 87.

Amount to be determined for the purposes of s. 771.

771.8.5. The amount that, for the purposes of paragraph *j* of subsection 1 of section 771, is to be determined under this section in respect of a corporation for a taxation year is the amount determined by the formula

$$A \times B \times C.$$

Interpretation.

In the formula in the first paragraph,

(a) A is,

i. if the corporation's taxation year includes the first or the last day of its eligibility period, or if a part of the year is excluded from its eligibility period because of the application of the fourth paragraph of section 771.1, the proportion that the number of days in the year that are included in the corporation's eligibility period is of the number of days in the year, and

ii. in any other case, 1;

(b) B is

i. 75%, if the corporation is referred to in subparagraph iii of paragraph *a* of section 771.12 and any of the following conditions is met:

(1) the certificate referred to in paragraph *a* of section 771.12 and held by the corporation provides for the application of that rate, or

(2) subject to the third paragraph, control of the corporation was acquired at the beginning of the year or of a preceding taxation year, but after 11 June 2003, by a person or a group of persons, and

ii. 100%, in any other case; and

(c) C is the lesser of

i. the amount by which its income for the year from an eligible business carried on by it in Canada exceeds its loss for the year from such a business, and

ii. the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount determined in respect of the corporation for the year under section 771.0.2.2 and the portion of that income that is not, because of an Act of the Legislature of Québec, subject to tax under this Part.

Exception.

The condition set out in subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph is deemed not to be met if the acquisition of control

(a) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation;

(c) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003; or

(d) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.

History: 1997, c. 85, s. 162; 2000, c. 39, s. 88; 2005, c. 23, s. 106; 2006, c. 13, s. 61; 2007, c. 12, s. 87.

Determination of amount.

771.8.5.1. The amount that must be determined, for the purposes of paragraph *j.1* of subsection 1 of section 771, in respect of a corporation for a taxation year under this section is the amount determined by the formula

$$A \times B.$$

Interpretation.

In the formula in the first paragraph,

(a) A is

i. if the corporation's taxation year includes the last day of its tax-free period, the proportion that the number of days in the year that are included in the corporation's tax-free period is of the number of days in the year, and

ii. in any other case, 1; and

(b) B is the lesser of

i. the amount by which the corporation's income for the year from an eligible business that is an eligible commercialization business exceeds its loss for the year from such a business, and

ii. the amount by which the corporation's taxable income for the year exceeds the aggregate of the amount determined in respect of the corporation for the year under section 771.0.2.2 and the portion of that income that is not subject to tax under this Part because of an Act of Québec.

History: 2010, c. 5, s. 72; 2010, c. 25, s. 79.

771.8.6. *(Repealed).*

History: 1997, c. 85, s. 162; 2000, c. 39, s. 89.

771.9. *(Repealed).*

History: 1987, c. 21, s. 31; 1992, c. 1, s. 73; 1995, c. 63, s. 77; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 85, s. 163; 2000, c. 39, s. 89.

771.10. *(Repealed).*

History: 1987, c. 21, s. 31; 1992, c. 1, s. 74; 1995, c. 63, s. 78; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 2000, c. 39, s. 89.

Deemed deduction in respect of loss.

771.11. Where the tax payable by a corporation for a particular taxation year is determined under any of paragraphs *e* to *g* of subsection 1 of section 771, as that paragraph read for that year, the corporation is deemed, for the purposes of the application of section 734 to any subsequent taxation year, to have deducted under Title VII of Book IV, in computing its taxable income for the particular year, the amount that may be deducted in respect of any loss sustained for a taxation year ending before 26 March 1997 which, except where the corporation was a savings and credit union throughout the particular year, is not a net capital loss under the said Title in such computation for the particular year and which the corporation has not otherwise deducted in such computation for the particular year.

Maximum amount.

Notwithstanding the foregoing, the amount contemplated in the first paragraph for the particular taxation year in respect of a particular loss of the corporation shall not be greater than such portion of the excess amount described in subparagraph *i* of paragraph *e*, *f* or *g*, as the case may be, of subsection 1 of section 771, as that paragraph read for that year, in respect of the corporation for the particular year as exceeds the aggregate of all amounts it is deemed to have deducted under this section in such computation for the particular year in respect of any loss sustained by it in a

taxation year preceding the taxation year in which the particular loss was sustained.

History: 1987, c. 21, s. 31; 1992, c. 1, s. 74; 1995, c. 63, s. 78; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 85, s. 164; 2000, c. 39, s. 90.

Exempt corporation.

771.12. Subject to section 771.13, a corporation is an exempt corporation for a taxation year if it carries on or may carry on the business referred to in the certificate described in paragraph *a* and

(a) the corporation holds a certificate issued by Investissement Québec certifying that the business referred to in the certificate is

i. an innovative project carried out by the corporation in an information technology development centre,

ii. an innovative project carried out by the corporation in a new economy centre, or

iii. an innovative project carried out by the corporation in a biotechnology development centre;

(b) the corporation is not a corporation resulting from an amalgamation or a merger of several corporations;

(c) *(paragraph repealed)*;

(d) the year is comprised in whole or in part in the corporation's eligibility period; and

(e) the corporation has filed a copy of the certificate referred to in paragraph *a* with the Minister.

History: 1997, c. 85, s. 165; 1998, c. 17, s. 64; 1999, c. 83, s. 106; 2000, c. 39, s. 91; 2001, c. 51, s. 73; 2001, c. 69, s. 12; 2002, c. 9, s. 22; 2003, c. 9, s. 101; 2005, c. 23, s. 107; 2012, c. 8, s. 135.

Restrictions.

771.13. A corporation is not an exempt corporation for a taxation year if

(a) the corporation is exempt from tax for the year under Book VIII;

(b) the corporation would be exempt from tax for the year under section 985 but for section 192;

(c) the corporation, at any time in the period extending from the day of its incorporation to the end of that year, was a beneficiary of a trust, other than a mutual fund trust, or carried on

i. a personal services business, or

ii. an eligible business as a member of a partnership or as a co-participant in a joint venture with another person or partnership;

(d) the corporation is referred to in subparagraph i or ii of paragraph *a* of section 771.12 and is the subject, at the beginning of the year or of a preceding taxation year, but after 11 June 2003, of an acquisition of control by a person or a group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

ii. is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation,

iii. derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003, or

iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;

(e) the corporation is referred to in subparagraph iii of paragraph *a* of section 771.12 and is the subject, at the beginning of the year or of a preceding taxation year, but after 30 March 2004, of an acquisition of control by a person or a group of persons, unless the acquisition of control

i. occurs before 1 July 2005 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 30 March 2004 and was binding on the parties on that date,

ii. is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation,

iii. derives from the exercise after 30 March 2004 of one or more rights described in paragraph *b* of section 20 that were acquired before 31 March 2004, or

iv. derives from the performance after 30 March 2004 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 31 March 2004;

(f) at any time in a preceding taxation year, but after 11 June 2003, control of a specified corporation is acquired by the corporation, by a person or a group of persons that controls it or by a group of persons each member of which is an exempt corporation, a specified corporation or a person who, alone

or together with other members of the group, controls an exempt corporation or a specified corporation, and of which group the corporation is part as a member or as a corporation that is controlled by one or more members of the group, unless

i. the acquisition of control

(1) occurs before 1 July 2004 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

(2) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003, or

(3) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003, or

ii. the corporation or, if control is acquired by a group, another exempt corporation that is a member of the group or is controlled by one or more of its members, notifies Investissement Québec of the acquisition of control and of its election to maintain its status as an exempt corporation despite this subparagraph *f*;

(g) for a preceding taxation year, the corporation has obtained, from Investissement Québec, a certificate referred to in paragraph *c* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, after the corporation elected to become a specified corporation from a particular day of that preceding year that is not before 12 June 2003 and in respect of which the date of coming into force of the certificate is a proof; or

(h) the corporation has made an election under the fourth or fifth paragraph of section 1029.8.36.0.3.80 for the year or a preceding taxation year.

Applicability.

Subparagraph *f* of the first paragraph does not apply to a particular corporation if control of the specified corporation is acquired by a person or a group of persons that controls the particular corporation or by a group of persons of which group the particular corporation is part as a corporation that is controlled by one or more members of the group and the person, group of persons or members also control another specified corporation.

Applicability.

In addition, subparagraph *f* of the first paragraph does not apply if the specified corporation whose control is acquired carries on or may carry on its business in a biotechnology development centre and the acquisition of control occurs after 30 March 2004.

Exempt corporation.

For the purpose of determining whether a corporation is an exempt corporation for the taxation year in which the acquisition of control described in subparagraph *f* of the first paragraph occurs or in which the election made under subparagraph *g* of that paragraph becomes effective, no reference is to be made to

(a) subparagraphs *a* to *e* of the first paragraph for the part of that year that begins, as the case may be, at the time of the acquisition of control or on the day on which the election becomes effective; and

(b) the revocation of the certificate referred to in paragraph *a* of section 771.12, if the date on which it becomes effective is included in the part of the year referred to in subparagraph *a*.

History: 1997, c. 85, s. 165; 1999, c. 83, s. 107; 2000, c. 5, s. 171; 2004, c. 21, s. 206; 2005, c. 23, s. 108; 2006, c. 13, s. 62; 2007, c. 12, s. 88; 2009, c. 15, s. 153.

Corporation dedicated to the commercialization of intellectual property.

771.14. Subject to section 771.15, a corporation is a corporation dedicated to the commercialization of intellectual property for a taxation year if

(a) it was incorporated in Canada after 19 March 2009 and before 1 April 2014;

(b) it began to carry on an eligible commercialization business within 12 months after its incorporation;

(c) for the year and for each preceding taxation year, all or substantially all of its income is derived from an eligible business that is an eligible commercialization business;

(d) in the year and in each preceding taxation year, all or substantially all of the amounts received or to be received by the corporation on the disposition of capital property is derived from the disposition of capital property in the ordinary course of carrying on an eligible commercialization business;

(e) in the year and in each preceding taxation year, it did not carry on all or part of a business previously carried on by a person or partnership, unless the person or partnership did not carry on the business during more than 90 days;

(f) in the year and in each preceding taxation year, it did not dispose of all or substantially all of the property it used in carrying on an eligible commercialization business;

(g) it is not a corporation resulting from an amalgamation or a merger of several corporations;

(h) the year is comprised in whole or in part in the corporation's tax-free period; and

(i) it encloses a copy of the certificate referred to in the definition of "eligible commercialization business" in the first paragraph of section 771.1 and the prescribed form containing prescribed information with the fiscal return it is required to file under section 1000 for the year.

History: 2010, c. 5, s. 73; 2010, c. 25, s. 80.

Restrictions.

771.15. A corporation is not a corporation dedicated to the commercialization of intellectual property for a taxation year if

(a) the corporation would be exempt from tax for the year under section 985 but for section 192;

(b) the corporation's taxable income is greater than zero for the year and the corporation did not deduct the maximum amount in respect of any reserve, allowance or other amount in computing its income or taxable income for the year;

(c) the corporation's taxable income is greater than zero for a preceding taxation year and the corporation did not deduct the maximum amount in respect of any reserve, allowance or other amount in computing its income or taxable income for that preceding year; or

(d) the corporation, at any time in the period extending from the day of its incorporation to the end of the year, was a beneficiary of a trust, other than a mutual fund trust, or carried on

i. a personal services business, or

ii. an eligible business as a member of a partnership or as a co-participant in a joint venture with another person or partnership, unless each other co-participant in the joint venture or each other member of the partnership, as the case may be, was an eligible institute.

History: 2010, c. 5, s. 73.

**TITLE III
MISCELLANEOUS TAX CREDITS****CHAPTER I
FOREIGN TAX CREDIT****DIVISION I
INTERPRETATION**

772. *(Repealed).*

History: 1972, c. 23, s. 585; 1972, c. 26, s. 62; 1973, c. 17, s. 91; 1973, c. 18, s. 25; 1975, c. 22, s. 212; 1989, c. 77, s. 85; 1995, c. 63, s. 81.

772.1. *(Repealed).*

History: 1990, c. 59, s. 296; 1993, c. 16, s. 289; 1993, c. 19, s. 63; 1994, c. 22, s. 271; 1995, c. 63, s. 81.

Definitions:

772.2. In this chapter,

“business-income tax”;

“business-income tax” paid by a taxpayer for a taxation year in respect of businesses carried on by the taxpayer in a particular foreign country means, subject to sections 772.5.1 to 772.5.2, such portion of any income or profits tax paid by the taxpayer for the year to the government of a foreign country as may reasonably be regarded as tax in respect of the taxpayer’s income from any business carried on by the taxpayer in the particular foreign country and that is attributable to an establishment situated in that country, but does not include a tax

(a) that may reasonably be regarded as relating to an amount that any other person or partnership has received or is entitled to receive from that government;

(b) that may reasonably be attributed, as the case may be,

i. to an amount included in the part of the individual’s income for the year that may reasonably be considered to be earned in the part of the individual’s exemption period, within the meaning of section 737.18.6, in relation to an employment that is included in the year,

ii. to the portion of an amount, included in the part of the individual’s income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, within the meaning of section 737.18.29, in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period, or

iii. to the portion of an amount, included in the part of the individual’s income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, established under the fourth paragraph of section 65 of the Act respecting international financial centres (chapter C-8.3), in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined in subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(c) that may reasonably be regarded as relating to an amount deductible under paragraph *a* of section 725 in computing the taxpayer’s taxable income for the year; or

(d) that may reasonably be regarded as relating to the amount determined for B in the formula in the first paragraph of section 752.0.10.0.3 in respect of the taxpayer for the year;

“commercial obligation”;

“commercial obligation” in respect of a taxpayer’s foreign oil and gas business in a country means an obligation of the taxpayer to a particular person, where

(a) the obligation was undertaken in the course of carrying on the business or in contemplation of the business; and

(b) the law of the country would have allowed the taxpayer to undertake an obligation, on substantially the same terms, to a person other than the particular person;

“economic profit”;

“economic profit” of a taxpayer in respect of a property for a period means the part of the taxpayer’s profit, from the business in which the property is used, that is attributable to the property in respect of the period or to related transactions, determined as if the only amounts deducted in computing that part of the profit were

(a) interest and financing expenses incurred by the taxpayer and attributable to the acquisition or holding of the property in respect of the period or to a related transaction;

(b) income or profits taxes payable by the taxpayer for any year to the government of a foreign country, in respect of the property for the period or in respect of a related transaction; or

(c) other outlays and expenses that are directly attributable to the acquisition, holding or disposition of the property in respect of the period or to a related transaction;

“foreign oil and gas business”;

“foreign oil and gas business” of a taxpayer means a business, carried on by the taxpayer in a taxing country, the principal activity of which is the extraction from natural accumulations, or from oil or gas wells, of petroleum, natural gas or related hydrocarbons;

“non-business-income tax”;

“non-business-income tax” paid by a taxpayer for a taxation year to the government of a foreign country means, subject to sections 772.5.1 to 772.5.2, such portion of any income or profits tax paid by the taxpayer for the year to that government as

(a) was not included in computing the business-income tax paid by the taxpayer for the year in respect of any business carried on by the taxpayer in any foreign country;

(b) was not deductible by virtue of section 146 in computing the taxpayer’s income for the year;

(c) was not deducted by virtue of section 146.1 in computing the taxpayer’s income for the year; and

(d) is not a tax

i. that would not have been payable by the taxpayer had the taxpayer not been a citizen of that country and that cannot reasonably be regarded as attributable to income from a source situated in a foreign country,

ii. that is in respect of an amount deducted because of section 671.3 in computing the business-income tax paid by the taxpayer,

iii. that may reasonably be regarded as relating to an amount that any other person or partnership has received or is entitled to receive from that government,

iv. that may reasonably be regarded as the proportion of the tax paid by the taxpayer to that government in respect of income from employment abroad that the amount deducted by the taxpayer under section 737.25 in respect of that income in computing the taxpayer's taxable income for the year is of the taxpayer's income from employment abroad for the year as determined under Chapters I and II of Title II of Book III,

v. that may reasonably be regarded as relating to the amount by which the amount deducted under subsection 12 of section 20 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the taxpayer's income for the year under that Act exceeds any amount deducted in the computation of the taxpayer's income for the year under section 146.1,

vi. that may reasonably be attributed to all or part of the taxable capital gain in respect of which the taxpayer or the taxpayer's spouse claimed a deduction under any of sections 726.7 to 726.9 and 726.20.2,

vii. that may reasonably be attributed, as the case may be,

(1) to an amount included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period, within the meaning of section 737.18.6, in relation to an employment that is included in the year,

(2) to the portion of an amount, included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, within the meaning of section 737.18.29, in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period, or

(3) to the portion of an amount, included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, that is equal to the product obtained by multiplying that amount by the percentage determined in subparagraph 1 of the second paragraph of that section 65 in respect of that period,

viii. that may reasonably be regarded as relating to an amount deductible under paragraph *a* of section 725 or section 737.14 or 737.28 in computing the taxpayer's taxable income for the year, or

ix. that may reasonably be regarded as relating to the amount determined for B in the formula in the first paragraph of section 752.0.10.0.3 in respect of the taxpayer for the year;

“production tax amount”;

“production tax amount” of a taxpayer for a foreign oil and gas business carried on by the taxpayer in a taxing country for a taxation year means the total of all amounts each of which

(a) became receivable in the year by the government of the country because of an obligation, other than a commercial obligation, of the taxpayer, in respect of the business, to the government or a mandatary or instrumentality of the government;

(b) is computed by reference to the amount by which the amount or value of petroleum, natural gas or related hydrocarbons produced or extracted by the taxpayer in the course of carrying on the business in the year exceeds an amount that

i. is deductible, under the agreement or law that creates the obligation described in paragraph *a*, in computing the amount receivable by the government of the taxing country, and

ii. is intended to take into account the taxpayer's operating and capital costs of that production or extraction, and can reasonably be considered to have that effect;

(c) would not, but for section 772.5.6, be an income or profits tax; and

(d) is not identified as a royalty under the agreement that creates the obligation described in paragraph *a* or under any law of the taxing country;

“related transactions”;

“related transactions”, in respect of a taxpayer's ownership of a property for a period, means transactions entered into by the taxpayer as part of the arrangement under which property was owned;

“tax-exempt income”;

“tax-exempt income” means income of a taxpayer from a source in a country in respect of which

(a) the taxpayer is, because of a tax agreement with that country, entitled to an exemption from all income or profits taxes, imposed in that country, to which the agreement applies; and

(b) no income or profits tax to which the tax agreement does not apply is imposed in any country other than Canada;

“taxing country”;

“taxing country” means a foreign country the government of which regularly imposes, in respect of income from business carried on in the country, a levy or charge of general application that would, but for section 772.5.6, be an income or profits tax;

“tax otherwise payable”;

“tax otherwise payable” under this Part by a taxpayer for a taxation year means the tax payable by the taxpayer for the year under this Part, computed without reference to this chapter, sections 766.2 to 766.3, 767, 772.13.2, 776 to 776.1.35, 776.17, 1183 and 1184, subparagraphs i and ii.1 of paragraph *h* of subsection 1 of section 771, subparagraphs i and iii of paragraph *j* of that subsection 1 and subparagraphs i and ii of paragraph *j.1* of that subsection 1, and, in paragraphs *d.2* to *d.4* of that subsection 1, the deduction provided for in respect of a Canadian-controlled private corporation;

“unused portion of the foreign tax credit”.

“unused portion of the foreign tax credit” of a taxpayer for a taxation year means

(a) in respect of a country, where the taxpayer is an individual,

i. the amount determined as such for the year in respect of the individual in respect of that country in accordance with the regulations made under section 772, as they read for that year, where the year is a taxation year previous to the taxation year 1991, or

ii. in other cases, the amount by which

(1) 45% of the business-income tax paid by the taxpayer for the year in respect of businesses carried on by the taxpayer in that country exceeds

(2) where the year is a taxation year that is before the taxation year 1998, the total of the amount deductible under section 772.8 in respect of that country in computing the individual’s tax payable under this Part for the year and the portion, that may reasonably be regarded as deductible under section 1086.3 in computing the individual’s tax payable under Part I.1 for the year, of the business-income tax paid by the individual for the year in respect of businesses carried on by the individual in that country, or, where the year is a taxation year that is after the taxation year 1997, the amount deductible under section 772.8 in respect of that country in computing the individual’s tax payable under this Part for the year; and

(b) where the taxpayer is a corporation,

i. the amount determined as such for the year in respect of the corporation in accordance with the regulations made under section 772, as they read for that year, where the year is a taxation year previous to the taxation year 1991,

ii. an amount that is nil where the year is the taxation year 1991 or 1992 and the corporation decided to include an amount under section 726.5, as it read for those years, in computing its taxable income for the year, and

iii. in other cases, the amount by which

(1) the aggregate of the amounts, each of which corresponds to the maximum deduction that would be granted in accordance with this chapter, otherwise than under section 772.12, to the corporation in respect of a foreign country if it had sufficient tax otherwise payable, exceeds

(2) the amount deductible under this chapter, otherwise than under section 772.12, in computing the corporation’s tax payable for the year under this Part.

History: 1995, c. 63, s. 82; 1996, c. 39, s. 209; 1997, c. 3, s. 71; 1997, c. 14, s. 129; 1997, c. 85, s. 166; 1999, c. 86, s. 83; 2000, c. 39, s. 92; 2001, c. 53, s. 132; 2003, c. 2, s. 228; 2003, c. 9, s. 102; 2004, c. 21, s. 207 [amended by 2005, c. 38, s. 405]; 2005, c. 1, s. 182; 2005, c. 38, s. 179; 2007, c. 12, s. 89; 2009, c. 5, s. 321; 2010, c. 5, s. 74; 2011, c. 34, s. 39; 2012, c. 8, s. 136; 2015, c. 21, s. 316; 2015, c. 36, s. 50; 2017, c. 1, s. 216.

Corresponding Federal Provision: 126(7).

Contributions to United States social security.

772.2.1. For the purposes of the definition of “non-business-income tax” in section 772.2, an amount paid by a taxpayer for a taxation year as an employee’s contribution under the United States Federal Insurance Contributions Act (26 U.S.C. ch. 21) is deemed to be an income or profits tax paid by the taxpayer for the year to the government of that country.

History: 2009, c. 15, s. 154.

Last day of a taxation year.

772.3. For the purposes of this chapter, where an individual dies or ceases to be resident in Canada during a taxation year, the last day of his taxation year is the day of his death or the last day on which he was resident in Canada, as the case may be.

History: 1995, c. 63, s. 82; 2009, c. 5, s. 322.

Computation of business income.

772.4. For the purposes of this chapter, an individual’s business income that is attributable to an establishment situated in a particular foreign country shall be computed by applying, with the necessary modifications, the regulations made under section 22.

Deductions computed separately in respect of each country.

In addition, any deduction referred to in this chapter, otherwise than under section 772.11 or 772.12, shall be computed separately in respect of each country.

Reference to the government of a foreign country.

Any reference in this chapter to the government of a foreign country or a country other than Canada includes a reference to the government of a political subdivision of such a country.

Deemed separate source.

Where the income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada, that portion of the income is deemed, for the purposes of this chapter, to be income from a separate source in the particular country.

Income from interest from foreign country.

For the purposes of section 772.9.1, if, in computing a taxpayer's income from a business carried on by the taxpayer in Canada, an amount is included in respect of interest paid or payable to the taxpayer by a person resident in a foreign country, and the taxpayer has paid to the government of that country a non-business-income tax for the year with respect to the amount, the amount is deemed to be income from a source in that foreign country.

History: 1995, c. 63, s. 82; 2003, c. 2, s. 229; 2009, c. 5, s. 323.

Corresponding Federal Provision: 126(6).

Deductions for specified capital gains.

772.5. An individual who, in computing his taxable income for a taxation year, deducts an amount under any of sections 726.7 to 726.9 and 726.20.2 is deemed, for the purposes of this chapter, to have claimed the deduction in respect of such taxable capital gains or portion thereof as he may specify in the fiscal return he is required to file under section 1000 for the year or, failing such designation, in respect of such taxable capital gains as the Minister may designate in respect of the individual for the year.

History: 1995, c. 63, s. 82.

Corresponding Federal Provision: 126(5.1).

No economic profit.

772.5.1. If a taxpayer acquires a property, other than a capital property, at any time after 23 February 1998 and it is reasonable to expect at that time that the taxpayer will not realize an economic profit in respect of the property for the period that begins at that time and ends when the taxpayer next disposes of the property, the amount of all income or profits taxes in respect of the property for the period, and in respect of related transactions, paid by the taxpayer for any year to the government of a foreign country, is not included in computing the taxpayer's business-income tax or non-business-income tax for any taxation year.

History: 2001, c. 53, s. 133; 2003, c. 2, s. 230.

Corresponding Federal Provision: 126(4.1).

Denial of foreign tax credit.

772.5.1.1. Where a taxpayer is a member of a partnership, no amount of income or profits tax paid to the government of a country other than Canada—in respect of the partnership's income for a period during which the taxpayer's direct or indirect share of the partnership's income that is subject to

the income tax laws (in section 772.5.1.2 referred to as the "relevant foreign tax law") of any country other than Canada is less than the taxpayer's direct or indirect share, determined for the purposes of this Act, of the income—is to be included in computing the taxpayer's business-income tax or non-business-income tax for any taxation year.

History: 2017, c. 1, s. 217.

Corresponding Federal Provision: 126(4.11).

Exceptions.

772.5.1.2. For the purposes of section 772.5.1.1, a taxpayer is not to be considered to have a lesser direct or indirect share of a partnership's income under the relevant foreign tax law than for the purposes of this Act solely because of one or more of the following:

(a) a difference between the relevant foreign tax law and this Act in the manner of

i. computing the partnership's income, or

ii. allocating the partnership's income because of the admission to, or withdrawal from, the partnership of any of its members;

(b) the fact that the partnership is considered as a corporation under the relevant foreign tax law; or

(c) the fact that the taxpayer is not considered as a corporation under the relevant foreign tax law.

History: 2017, c. 1, s. 217.

Corresponding Federal Provision: 126(4.12).

Tiered partnerships.

772.5.1.3. For the purposes of sections 772.5.1.1 and 772.5.1.2, where a taxpayer is (or is deemed under this section to be) a member of a particular partnership that is a member of another partnership, the taxpayer is deemed to be a member of the other partnership.

History: 2017, c. 1, s. 217.

Corresponding Federal Provision: 126(4.13).

Short-term securities acquisitions.

772.5.2. If at any particular time a taxpayer disposes of a property that is a share or debt obligation and the period that began at the time the taxpayer last acquired the property and ended at the particular time is one year or less, the amount included in business-income tax or non-business-income tax paid by the taxpayer for a particular taxation year on account of all taxes that meet the following conditions, shall, subject to section 772.5.3, not exceed the amount determined by the formula provided for in the second paragraph:

(a) the taxes are paid by the taxpayer in respect of dividends or interest in respect of the period that are included in

computing the taxpayer's income from the property for any taxation year;

(b) the taxes are otherwise included in business-income tax or non-business-income tax for any taxation year; and

(c) the taxes are similar to the tax levied under Part XIII of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Formula.

The formula to which the first paragraph refers is the following:

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

Interpretation.

In the formula provided for in the second paragraph,

(a) A is,

i. if the foreign tax was otherwise included in business-income tax, the total of

(1) that proportion of 26.5% that the number of days in the taxation year that are included in the calendar year 2011 is of the number of days in the taxation year, and

(2) that proportion of 25% that the number of days in the taxation year that are after 31 December 2011 is of the number of days in the taxation year, or

ii. if the foreign tax was otherwise included in non-business-income tax, the total of

(1) if the taxpayer is a Canadian-controlled private corporation throughout the taxation year, that proportion of 28% that the number of days in the taxation year that are after 31 December 2010 is of the number of days in the taxation year, and

(2) if the taxpayer is not a Canadian-controlled private corporation throughout the taxation year, the total of that proportion of 16.5% that the number of days in the taxation year that are included in the calendar year 2011 is of the number of days in the taxation year and that proportion of 15% that the number of days in the taxation year that are after 31 December 2011 is of the number of days in the taxation year;

(b) B is the aggregate of

i. the taxpayer's proceeds from the disposition of the property at the particular time, and

ii. the amount of all dividends or interest from the property in respect of the period included in computing the taxpayer's income for any taxation year;

(c) C is the aggregate of the cost at which the taxpayer last acquired the property and any outlays or expenses made or incurred by the taxpayer for the purpose of disposing of the property at the particular time;

(d) D is the amount of the taxes referred to in the first paragraph that would otherwise be included in computing the taxpayer's business-income tax or non-business-income tax for the particular year; and

(e) E is the total amount of the taxes referred to in the first paragraph that would otherwise be included in computing the taxpayer's business-income tax or non-business-income tax for all taxation years.

History: 2001, c. 53, s. 133; 2003, c. 2, s. 231; 2017, c. 1, s. 218.

Corresponding Federal Provision: 126(4.2).

Section 772.5.2 not applicable.

772.5.3. Section 772.5.2 does not apply to a property of a taxpayer

(a) that is a capital property;

(b) that is a debt obligation issued to the taxpayer that has a term of one year or less and that is held by no one other than the taxpayer at any time;

(c) that was last acquired by the taxpayer before 24 February 1998; or

(d) in respect of which any tax described in the first paragraph of section 772.5.2 is, because of section 772.5.1, not included in computing the taxpayer's business-income tax or non-business-income tax.

History: 2001, c. 53, s. 133.

Corresponding Federal Provision: 126(4.3).

Special rules.

772.5.4. For the purposes of sections 772.5.1 and 772.5.2 and the definition of "economic profit" in section 772.2,

(a) sections 83.0.4, 83.0.5, 281 to 283 and 428 to 451, Chapter I of Title I.1 of Book VI, Title I.2 of Book VI, sections 832.1, 851.22.0.4 and 851.22.15, paragraph b of section 851.22.23 and sections 851.22.23.1, 851.22.23.2 and 999.1 do not apply to deem a disposition or acquisition of property to have been made;

(b) the following dispositions are deemed not to be dispositions:

i. a disposition, to which section 301.3 applies, of a capital property in exchange for a new obligation,

ii. a disposition, to which sections 541 to 543 apply, of shares in exchange for new shares, or

iii. a disposition, to which sections 551 to 553.1, 554 and 555 apply, of shares in exchange for new shares; and

(c) the capital property and the new obligation, or the shares and the new shares, as the case may be, to which paragraph *b* refers, are deemed to be the same property.

History: 2001, c. 53, s. 133; 2004, c. 8, s. 146; 2015, c. 36, s. 51; 2019, c. 14, s. 252; 2020, c. 16, s. 117.

Corresponding Federal Provision: 126(4.4).

Synthetic disposition — holding period.

772.5.4.1. Where a synthetic disposition arrangement is entered into in respect of a property owned by a taxpayer and the synthetic disposition period of the arrangement is 30 days or more, the following rules apply:

(a) for the purpose of determining whether the period referred to in the first paragraph of section 772.5.2 is one year or less, the period is deemed to begin immediately before the particular time referred to in that section or, if it is earlier, at the end of the synthetic disposition period of the arrangement; and

(b) for the purposes of section 772.5.4.2, the taxpayer is deemed not to own the property during the synthetic disposition period of the arrangement.

History: 2017, c. 1, s. 219.

Corresponding Federal Provision: 126(4.5).

Exception.

772.5.4.2. Section 772.5.4.1 does not apply in respect of a property owned by a taxpayer in respect of a synthetic disposition arrangement if the taxpayer owned the property throughout the one-year period (determined without reference to this section) that ended immediately before the synthetic disposition period of the arrangement.

History: 2017, c. 1, s. 219.

Corresponding Federal Provision: 126(4.6).

772.5.5. (Repealed).

History: 2001, c. 53, s. 133; 2003, c. 2, s. 232.

Foreign oil and gas business.

772.5.6. For the purposes of this chapter, a taxpayer who is resident in Canada throughout a taxation year and carries on a foreign oil and gas business in a taxing country in the year is deemed to have paid in the year as an income or profits tax to the government of the taxing country an amount equal to the lesser of

(a) the amount by which the total of all amounts each of which is, but for this section, income or profits tax paid in the year in respect of the business to the government of the taxing country is exceeded by the amount obtained by

multiplying the taxpayer's income from the business carried on in the taxing country for the year by the total of

i. that proportion of 26.5% that the number of days in the taxation year that are included in the calendar year 2011 is of the number of days in the taxation year, and

ii. that proportion of 25% that the number of days in the taxation year that are after 31 December 2011 is of the number of days in the taxation year; and

(b) the taxpayer's production tax amount for the business carried on in the taxing country for the year.

History: 2003, c. 2, s. 233; 2017, c. 1, s. 220; 2019, c. 14, s. 253.

Corresponding Federal Provision: 126(5).

DIVISION II CREDITS

Non-business income tax.

772.6. A taxpayer who is an individual resident in Québec on the last day of a taxation year, or that is a corporation resident in Canada that carries on a business in Québec at any time in a taxation year, may deduct from the tax otherwise payable under this Part for the year

(a) in the case of an individual, the amount by which the non-business-income tax the individual has paid for the year to the government of a foreign country in respect of income from a source situated in that country, exceeds the aggregate of

i. the deduction granted to the individual in respect of that income for the year under subsection 1 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and

ii. (subparagraph repealed),

iii. where the individual is required under section 127.5 of the Income Tax Act to pay tax for the year, an amount in respect of that income is computed under subsection 2 of section 127.54 of that Act, for the purpose of determining the tax, and the amount so computed is equal

(1) to the amount referred to in paragraph *a* of that subsection 2, the amount that would be referred to in that paragraph if the reference therein to section 126 of that Act were replaced by a reference to subsection 1 of that section 126;

(2) to the amount referred to in paragraph *b* of that subsection 2, such portion of the amount referred to in that paragraph *b* as may reasonably be regarded as attributable to income referred to in subparagraph *i* of paragraph *b* of subsection 1 of section 126 of that Act; and

(b) in the case of a corporation, the proportion of the amount by which the foreign tax deduction that would be granted to the corporation for the year under subsection 1 of section 126 of the Income Tax Act, if the deduction referred to in subsection 1 of section 124 of that Act were not taken into account and the rates of 28%, 16.5% and 15% referred to in A of the formula in subsection 4.2 of that section 126 were replaced by rates of 38%, 26.5% and 25%, respectively, exceeds the deduction granted for the year under subsection 1 of that section 126 that the corporation's business for the year carried on in Québec is of its business carried on in Canada, computed in the manner prescribed in the regulations made under section 771, with the necessary modifications.

History: 1995, c. 63, s. 82; 1997, c. 3, s. 71; 2001, c. 53, s. 134; 2003, c. 2, s. 234; 2017, c. 1, s. 221.

Interpretation Bulletins: IMP. 772-1/R2.

Corresponding Federal Provision: 126(1) (part).

Authorized foreign bank.

772.6.1. For the purposes of sections 146.1 and 146.2 and this chapter, in respect of an authorized foreign bank, the following rules apply:

(a) the bank is deemed, for the purposes of sections 772.2, 772.4 and 772.5.1 to 772.7, to be a corporation resident in Canada in respect of its Canadian banking business;

(b) the reference in the portion of section 146.1 before paragraph *a* to “foreign country” shall be read as a reference to “country that is neither Canada nor a country in which the taxpayer is resident at any time in the year”;

(c) the definition of “tax-exempt income” in section 772.2 shall be read as follows:

““tax-exempt income” means income of a taxpayer from a source in a particular country in respect of which

(a) the taxpayer is, under a comprehensive agreement or convention for the elimination of double taxation on income, which has the force of law in the particular country and to which a country in which the taxpayer is resident is a party, entitled to an exemption from all income or profits taxes, imposed in the particular country, to which the agreement or convention applies; and

(b) no income or profits tax to which the agreement or convention does not apply is imposed in the particular country;”;

(d) the references in the portion of the second paragraph of section 772.7 before subparagraph *a* to “in relation to a foreign country” and “from sources situated in a foreign country” shall be read as references to “in relation to a country that is neither Canada nor a country in which the corporation is resident at any time in the year” and “in

respect of its Canadian banking business from sources in that country”, respectively;

(e) the reference in subparagraphs *a* and *d* of the second paragraph of section 772.7 to “in the foreign country” shall be read as a reference to “in that country”; and

(f) the bank shall include in computing its non-business income tax paid for a taxation year to the government of a foreign country, only taxes that relate to amounts that are included in computing the bank's taxable income from its Canadian banking business.

History: 2004, c. 8, s. 147.

Corresponding Federal Provision: 126(1.1).

Maximum deduction in respect of individuals.

772.7. The deduction provided for in section 772.6 in respect of an individual for a taxation year shall not exceed the proportion of the individual's tax otherwise payable under this Part for the year that

(a) the amount for the year, if the individual is resident in Canada throughout the year, or, where the individual is not resident in Canada at any time in the year, for the part of the year throughout which the individual is resident in Canada, by which the total of the individual's incomes exceeds the total of the individual's losses from sources situated in a foreign country, computed

i. on the assumption that no businesses were carried on by the individual in the foreign country through an establishment situated in that country and no amount was deducted under section 584 in computing the individual's income for the year,

ii. without taking into account any portion of income that is deductible under paragraph *a* of section 725 or any of sections 726.26, 737.14, 737.16, 737.18.10, 737.18.34, 737.25 and 737.28, or deducted under any of sections 726.7 to 726.9 and 726.20.2, by the individual in computing the individual's taxable income for the year, and

iii. without taking into account any income or loss from a source situated in the foreign country, if any income of the individual from the source would be tax-exempt income; is of

(b) the amount by which

i. either, if the individual is resident in Canada throughout the year, the aggregate of the individual's income for the year and of all amounts each of which is an amount included in computing the individual's taxable income for the year under section 726.35, 726.43 or 737.17, or, if the individual is not resident in Canada at any time in the year, the amount determined for the year in respect of the individual under the third paragraph of section 23, exceeds

ii. the aggregate of all amounts each of which is an amount deductible under any of sections 725, 725.2 to 725.5, 726.26, 726.28, 737.14, 737.16, 737.16.1, 737.18.10, 737.18.34, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7, 737.22.0.10, 737.22.0.13, 737.25 and 737.28, or deducted under any of sections 726.7 to 726.9, 726.20.2, 726.33, 726.42 and 729, in computing the individual's taxable income for the year.

Maximum deduction in respect of corporations.

The deduction provided for in section 772.6 in respect of a corporation for a taxation year in relation to a foreign country shall not exceed 10% of the proportion that the corporation's business for the year carried on in Québec is of its business carried on in Canada or in Québec and elsewhere, as determined in the manner prescribed in the regulations made under section 771, of the amount for the year by which the total of the corporation's incomes exceeds the total of the corporation's losses, from sources situated in a foreign country, computed

(a) on the assumption that no businesses were carried on by the corporation in the foreign country through an establishment situated in that country;

(b) without taking into account any income from shares of the capital stock of a foreign affiliate of the corporation;

(c) without taking into account any portion of income that is deductible under section 737.14 by the corporation in computing the corporation's taxable income for the year; and

(d) without taking into account any income or loss from a source situated in the foreign country, if any income of the corporation from the source would be tax-exempt income.

History: 1995, c. 63, s. 82; 1997, c. 3, s. 71; 1997, c. 14, s. 130; 1997, c. 85, s. 167; 1999, c. 83, s. 108; 1999, c. 86, s. 99; 2000, c. 39, s. 264; 2001, c. 53, s. 135; 2002, c. 40, s. 77; 2003, c. 9, s. 103; 2004, c. 8, s. 148; 2004, c. 21, s. 208; 2006, c. 36, s. 78; 2010, c. 25, s. 81; 2013, c. 10, s. 58; 2017, c. 29, s. 158; 2019, c. 14, s. 254.

Interpretation Bulletins: IMP. 772-1/R2.

Corresponding Federal Provision: 126(1) (part).

Business income.

772.8. An individual who is resident in Québec on the last day of a taxation year and who, in the year, carries on a business in a foreign country through an establishment situated in that country, may deduct from his tax otherwise payable under this Part for the year an amount that does not exceed the total of

(a) 45% of the business-income tax paid by the individual for the year in respect of businesses the individual carried on in that country; and

(b) the individual's unused portions of the foreign tax credit in respect of that country for the ten taxation years preceding the year and the three taxation years following the year.

History: 1995, c. 63, s. 82; 2005, c. 38, s. 180.

Corresponding Federal Provision: 126(2) (part).

Maximum deduction in respect of an individual.

772.9. The deduction provided for in section 772.8 in respect of an individual for a taxation year in respect of a country shall not exceed the lesser of

(a) the proportion of the individual's tax otherwise payable under this Part for the year that

i. the amount for the year, if the individual is resident in Canada throughout the year, or, where the individual is not resident in Canada at any time in the year, for the part of the year throughout which the individual is resident in Canada, by which the total of the individual's incomes exceeds the total of the individual's losses, from businesses carried on by the individual in that country and attributable to an establishment situated therein, computed without taking into account

(1) any portion of income that is deductible under paragraph a of section 725 or any of sections 726.26, 737.16, 737.18.10 and 737.18.34 by the individual in computing the individual's taxable income for the year, and

(2) any income or loss from a source situated in that country, if any income of the individual from the source would be tax-exempt income, is of

ii. the amount by which

(1) either, if the individual is resident in Canada throughout the year, the aggregate of the individual's income for the year and of all amounts each of which is an amount included in computing the individual's taxable income for the year under section 726.35, 726.43 or 737.17, or, if the individual is not resident in Canada at any time in the year, the amount determined for the year in respect of the individual under subparagraph a of the third paragraph of section 23, exceeds

(2) the aggregate of all amounts each of which is an amount deductible under any of sections 725, 725.2 to 725.5, 726.26, 726.28, 737.14, 737.16, 737.16.1, 737.18.10, 737.18.34, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7, 737.22.0.10, 737.22.0.13, 737.25 and 737.28, or deducted under any of sections 726.7 to 726.9, 726.20.2, 726.33, 726.42 and 729, in computing the individual's taxable income for the year; and

(b) the amount by which the individual's tax otherwise payable under this Part for the year exceeds the aggregate of

the amounts deducted from the tax by the individual for the year under section 772.6.

History: 1995, c. 63, s. 82; 1997, c. 14, s. 131; 1997, c. 85, s. 168; 1999, c. 83, s. 109; 1999, c. 86, s. 99; 2000, c. 39, s. 93; 2001, c. 53, s. 136; 2002, c. 40, s. 78; 2003, c. 9, s. 104; 2004, c. 8, s. 149; 2004, c. 21, s. 209; 2006, c. 36, s. 79; 2010, c. 25, s. 82; 2013, c. 10, s. 59; 2017, c. 29, s. 159; 2019, c. 14, s. 255.

Corresponding Federal Provision: 126(2.1).

Computation of incomes and losses from foreign sources.

772.9.1. For the purposes of subparagraph *a* of the first paragraph of section 772.7, the second paragraph of that section and subparagraph *i* of paragraph *a* of section 772.9, the incomes and losses for a taxation year of a taxpayer from sources in a foreign country shall also be computed as if, where applicable, the aggregate of all amounts each of which is that portion of an amount deducted in computing those incomes or losses for the year under any of sections 371, 418.1.10, 418.17 and 418.17.3 that is attributable to those sources were the greater of

(a) the aggregate of all amounts each of which is that portion of an amount deducted in computing the taxpayer's income for the year under any of sections 371, 418.1.10, 418.17 and 418.17.3 that is attributable to those sources; and

(b) the aggregate of

i. the portion of the maximum amount that would be deductible by the taxpayer in computing the taxpayer's income for the year under section 371 that is attributable to those sources if the amount determined under paragraph *b* of section 374 for the taxpayer in respect of the year were equal to the amount by which the amount determined under the second paragraph exceeds the aggregate of all amounts each of which is the portion of an amount, other than a portion that results in a reduction of the amount otherwise determined under subparagraph *a* of the second paragraph, that is attributable to those sources and that would be deducted under section 418.17 in computing the taxpayer's income for the year if the maximum amounts deductible for the year under section 418.17 were deducted,

ii. the maximum amount that would be deductible by the taxpayer in computing the taxpayer's income for the year under section 418.1.10 in relation to those sources if

(1) the amount deducted in computing the taxpayer's income for the year under section 371 in relation to those sources were the amount determined under subparagraph *i*,

(2) the amounts deducted in computing the taxpayer's income for the year under sections 418.17 and 418.17.3 in relation to those sources were the maximum amounts deductible under those sections,

(3) for the purposes of sections 418.1.3 to 418.1.5, the total of the amounts designated for the year under subparagraph *ii* of paragraph *a* of section 330 in respect of a disposition in the year by the taxpayer of foreign resource properties in relation to the foreign country were the maximum total that could be so designated without any reduction in the maximum amount that would be determined for the year under subparagraph *i* in respect of the taxpayer and the foreign country if subparagraph *b* of the second paragraph were read without reference to the assumption made therein in relation to designations made under subparagraph *ii* of paragraph *a* of section 330, and

(4) the amount determined under paragraph *b* of section 418.1.10 were nil; and

iii. the aggregate of all amounts each of which is the maximum amount attributable to one of those sources that the taxpayer may deduct in computing the taxpayer's income for the year under section 418.17 or 418.17.3.

Amount.

The amount that, for the purposes of subparagraph *i* of subparagraph *b* of the first paragraph, must be determined under this paragraph is the aggregate of

(a) the taxpayer's foreign resource income, within the meaning assigned by section 418.1.7, for the year in relation to the foreign country, determined as if the taxpayer had deducted the maximum amounts deductible for the year under sections 418.17 and 418.17.3; and

(b) the aggregate of all amounts each of which is an amount that, but for any designation under subparagraph *ii* of paragraph *a* of section 330, would have been included in computing the taxpayer's income for the year under that paragraph *a* in respect of a disposition of foreign resource property in relation to the foreign country.

History: 2004, c. 8, s. 150.

Corresponding Federal Provision: 126(9).

Deemed dividend in respect of partnership.

772.9.1.1. If an amount is deemed under section 603.1 to be a taxable dividend received by a person in a taxation year of the person in respect of a partnership, and it may reasonably be considered that all or part of the amount (in this section referred to as the "foreign-source portion") is attributable to income of the partnership from a source in a foreign country, the person is deemed for the purposes of this chapter to have income from that source for the year equal to the amount determined by the formula

$$A \times B / C.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount included under section 497 in computing the person's income for the year in respect of the taxable dividend;

(b) B is the foreign-source portion; and

(c) C is the amount of the taxable dividend deemed to be received by the person.

History: 2009, c. 5, s. 324.

Corresponding Federal Provision: 126(8).

Deduction for former resident.

772.9.2. If at any particular time in a taxation year an individual who is not resident in Canada disposes of a property that the individual last acquired because of the application of subparagraph *c* of the first paragraph of section 785.2 at any time, in this section referred to as the "acquisition time", after 1 October 1996, the individual may deduct from the individual's tax otherwise payable under this Part for the year, in this section referred to as the "emigration year", that includes the time immediately before the acquisition time, an amount not exceeding the lesser of

(a) the amount by which the aggregate of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the taxation year to the government described in the second paragraph, that can reasonably be regarded as having been paid in respect of the portion of any gain or profit from the disposition of the property that accrued while the individual was resident in Canada and before the time the individual last ceased to be resident in Canada, exceeds the deduction relating to the portion of the gain or profit that is granted to the individual for the emigration year under subsection 2.21 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(b) the amount by which the amount of tax under this Part that was, after taking into account the application of this section to dispositions that occurred before the disposition time, otherwise payable by the individual for the emigration year, exceeds the amount of such tax that would otherwise have been payable if the property had not been deemed under section 785.2 to have been disposed of in the emigration year.

Government referred to.

The government to which subparagraph *a* of the first paragraph refers is,

(a) if the property is immovable property situated in a country other than Canada,

i. the government of that country, or

ii. the government of a country in which the individual is resident at the particular time referred to in the first

paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time; or

(b) if the property is not immovable property, the government of a country in which the individual is resident at the particular time referred to in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time.

History: 2005, c. 23, s. 109; 2006, c. 13, s. 63; 2009, c. 5, s. 325.

Corresponding Federal Provision: 126(2.21).

Deduction for former resident.

772.9.3. If at any particular time in a taxation year an individual who is not resident in Canada disposes of a property that the individual last acquired at any time, in this section referred to as the "acquisition time", on a distribution by a trust after 1 October 1996 to which subparagraphs *a* to *c* of the first paragraph of section 688 do not apply only because of the application of section 692, the trust may deduct from its tax otherwise payable under this Part for the year, in this section referred to as the "distribution year", that includes the acquisition time, an amount not exceeding the lesser of

(a) the amount by which the aggregate of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the taxation year to the government described in the second paragraph, that can reasonably be regarded as having been paid in respect of the portion of any gain or profit from the disposition of the property that accrued before the distribution and after the latest of the following times before the distribution, exceeds the deduction relating to the portion of the gain or profit that is granted to the trust for the distribution year under subsection 2.22 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement):

- i. the time at which the trust became resident in Canada,
- ii. the time at which the individual became a beneficiary under the trust, or
- iii. the time at which the trust acquired the property; and

(b) the amount by which the amount of tax under this Part that was, after taking into account the application of this section to dispositions that occurred before the particular time, otherwise payable by the trust for the distribution year, exceeds the amount of such tax that would otherwise have been payable by the trust if the property had not been distributed to the individual.

Government referred to.

The government to which subparagraph *a* of the first paragraph refers is,

(a) if the property is immovable property situated in a country other than Canada,

i. the government of that country, or

ii. the government of a country in which the individual is resident at the particular time described in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time; or

(b) if the property is not immovable property, the government of a country in which the individual is resident at the particular time described in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time.

History: 2005, c. 23, s. 109; 2006, c. 13, s. 64; 2009, c. 5, s. 326.

Corresponding Federal Provision: 126(2.22).

Deduction of foreign tax credits.

772.9.4. For the purposes of sections 772.9.2 and 772.9.3, in computing the total amount of taxes paid by an individual for a taxation year to one or more governments of countries other than Canada in relation to the disposition of a property by the individual in the year, there shall be deducted any tax credit, or other reduction in the amount of a tax, to which the individual was entitled for the year, under the law of any of those countries or under a tax agreement, within the meaning assigned by section 1 or that would be assigned by that section if the Gouvernement du Québec had not made an agreement referred to in that definition of “tax agreement”, entered into with any of those countries, because of taxes paid or payable by the individual under this Act or the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the disposition or a previous disposition of the property.

History: 2005, c. 23, s. 109; 2006, c. 13, s. 65.

Corresponding Federal Provision: 126(2.23).

Rules applicable.

772.10. For the purposes of this chapter,

(a) the amount deducted by an individual under section 772.8 for a taxation year in respect of a country is deemed to be deducted in respect of the amount determined in paragraph *a* of that section in respect of that country, up to the latter amount, and any balance of the amount so deducted is deemed to be deducted in respect of the individual's unused portions of the foreign tax credit in respect of that country that are deductible for the year;

(b) no amount is deductible under section 772.8 in computing an individual's tax payable under this Part for a particular taxation year in respect of the individual's unused portion of the foreign tax credit for a determined taxation year in respect of a country, until the individual's unused portions of the foreign tax credit for taxation years previous

to the determined year in respect of that country that are deductible for the particular year have been deducted; and

(c) an individual's unused portion of the foreign tax credit in respect of a country for a taxation year is deductible under section 772.8 in computing the individual's tax payable under this Part for a particular taxation year only to the extent that it exceeds the aggregate of the amounts deducted in respect of that unused portion of the foreign tax credit in computing the individual's tax payable under this Part for taxation years preceding the particular year, or under Part I.1 for taxation years preceding the particular year that are before the taxation year 1998.

History: 1995, c. 63, s. 82; 1997, c. 85, s. 169.

Corresponding Federal Provision: 126(2.3)(part).

Employees of international organizations.

772.11. An individual who is an employee of an international organization within the meaning of section 2 of the Foreign Missions and International Organizations Act (Statutes of Canada, 1991, chapter 41) may, if the individual is resident in Québec on the last day of a taxation year, deduct from the individual's tax otherwise payable under this Part for the year the amount by which the aggregate of all amounts each of which is an amount paid by the individual to the organization as a levy to defray expenses of the organization, computed by reference to the remuneration received by the individual in the year from the organization in a manner similar to the manner in which income tax is computed, exceeds the aggregate of

(a) the deduction granted to the individual in respect of the levies for the year under subsection 3 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(b) (*subparagraph repealed*);

(c) where the individual is required under section 127.5 of the Income Tax Act to pay tax for the year, an amount in respect of the levies is computed under subsection 2 of section 127.54 of that Act, for the purpose of determining the tax, and the amount so computed is equal

i. to the amount referred to in paragraph *a* of that subsection 2, the amount that would be referred to in that paragraph if the reference therein to section 126 of that Act were replaced by a reference to subsection 3 of that section 126, or

ii. to the amount referred to in paragraph *b* of that subsection 2, such portion of the amount referred to in that paragraph as may reasonably be regarded as attributable to income referred to in paragraph *a* of subsection 3 of section 126 of that Act.

Maximum deduction.

However, the deduction provided for in the first paragraph in respect of an individual for a taxation year in respect of employment with an international organization shall not exceed the lesser of

(a) the proportion of the individual's tax otherwise payable under this Part for the year that

i. the individual's income for the year or, if the individual's taxable income is computed in the manner prescribed in section 23, for the part of the year throughout which the individual was resident in Canada, from employment with that organization, except the portion of that income that is deductible under section 725 in computing the individual's taxable income for the year, is of

ii. the amount by which

(1) either, if the individual is resident in Canada throughout the year, the aggregate of the individual's income for the year and of all amounts each of which is an amount included in computing the individual's taxable income for the year under section 726.35, 726.43 or 737.17, or, if the individual is not resident in Canada at any time in the year, the amount determined for the year in respect of the individual under the third paragraph of section 23, exceeds

(2) the aggregate of all amounts each of which is an amount deductible under any of sections 725, 725.2 to 725.5, 726.26, 726.28, 737.14, 737.16, 737.16.1, 737.18.10, 737.18.34, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7, 737.22.0.10, 737.25 and 737.28, or deducted under any of sections 726.7 to 726.9, 726.20.2, 726.33, 726.42 and 729, in computing the individual's taxable income for the year; and

(b) the proportion of the aggregate of the levies referred to in the first paragraph paid by the individual to the organization in respect of the year that

i. the individual's income for the year from employment with the international organization, except the portion of that income that is deductible under section 725 in computing the individual's taxable income for the year, is of

ii. the amount that would be the individual's income for the year from employment with that organization but for section 488.

History: 1995, c. 63, s. 82; 1997, c. 14, s. 132; 1997, c. 85, s. 170; 1999, c. 83, s. 110; 1999, c. 86, s. 99; 2000, c. 39, s. 264; 2002, c. 40, s. 79; 2003, c. 2, s. 235; 2003, c. 9, s. 105; 2004, c. 8, s. 151; 2004, c. 21, s. 210; 2006, c. 36, s. 80; 2010, c. 25, s. 83; 2013, c. 10, s. 60; 2017, c. 29, s. 160; 2019, c. 14, s. 256.

Corresponding Federal Provision: 126(3)(part).

Additional deduction in respect of corporations.

772.12. A corporation that is resident in Canada and that carries on a business in Québec at any time in a taxation year may deduct from its tax otherwise payable for the year an amount that does not exceed the lesser of

(a) the total of the corporation's unused portions of the foreign tax credit for the 20 taxation years preceding the year and the three taxation years following the year; and

(b) the amount by which the corporation's tax otherwise payable under this Part for the year exceeds the aggregate of all amounts deducted under section 772.6 in computing the corporation's tax payable under this Part for the year and the amount deducted by the corporation under section 776.1.5.4 in that computation for the year.

History: 1995, c. 63, s. 82; 1997, c. 3, s. 71; 2005, c. 38, s. 181; 2010, c. 25, s. 84.

Interpretation Bulletins: IMP. 772-1/R2.

Corresponding Federal Provision: 126(2) (part).

Rules applicable.

772.13. For the purposes of section 772.12,

(a) no amount is deductible under that section in computing a corporation's tax payable under this Part for a particular taxation year in respect of the corporation's unused portion of the foreign tax credit for a determined taxation year, until the corporation's unused portions of the foreign tax credit for taxation years previous to the determined year that are deductible for the particular year have been deducted;

(b) a corporation's unused portion of the foreign tax credit for a taxation year is deductible under that section in computing the corporation's tax payable under this Part for a particular taxation year only to the extent that it exceeds the aggregate of the amounts deducted in respect of the unused portion of the foreign tax credit in computing the corporation's tax payable under this Part for the taxation years previous to the particular year;

(c) notwithstanding the first paragraph of section 549, a new corporation's unused portion of the foreign tax credit resulting from an amalgamation, within the meaning of section 544, for a taxation year ending after the amalgamation is not deductible, under section 772.12 in computing the tax payable under this Part for a taxation year by a predecessor corporation by virtue of that amalgamation, other than a corporation that, where the new corporation is a corporation having resulted from the amalgamation, after 31 December 1989, of a particular corporation and one or more of its subsidiary wholly-owned corporations, within the meaning of subsection 5 of section 544, is the particular corporation;

(d) in the case of a winding-up referred to in section 556, the unused portion of the foreign tax credit of the subsidiary,

within the meaning of that section, for a particular taxation year, to the extent that it has not previously been deducted in computing the subsidiary's tax payable under this Part for a taxation year and if subparagraph *i* of subparagraph *f* has never been applied in respect of the subsidiary, is deemed, for the computation of the deduction provided for in section 772.12 for the taxation year of the parent, within the meaning of section 556, commencing after the beginning of the winding-up, to be an unused portion of the parent's foreign tax credit for its taxation year in which the particular taxation year ended, and section 564.5 applies, with the necessary modifications, for the purposes of this subparagraph;

(e) section 564.4.4 applies, with the necessary modifications, in the case provided for in subparagraph *d*;

(f) where, at any time, the control of a corporation is acquired by a person or group of persons,

i. no amount in respect of the corporation's unused portion of the foreign tax credit for a taxation year ending before that time is deductible in computing the corporation's tax payable under this Part for a taxation year ending after that time, and

ii. no amount in respect of the corporation's unused portion of the foreign tax credit for a taxation year ending after that time is deductible in computing the corporation's tax payable under this Part for a taxation year ending before that time.

History: 1995, c. 63, s. 82; 1997, c. 3, s. 71; 2000, c. 5, s. 172.

Corresponding Federal Provision: 88(1)(e.7) and 126(2.3) (part).

CHAPTER I.0.1

TAX CREDIT COMPENSATING TAX PAID TO THE GOVERNMENT OF A PROVINCE OTHER THAN QUÉBEC

Definitions:

772.13.1. In this chapter,

“eligible individual”;

“eligible individual” for a taxation year means an individual who

(a) is deemed to have been resident in Québec throughout the taxation year on the ground that the individual sojourned in Québec for a period of, or periods the total of which is, 183 days or more and was ordinarily resident outside Canada; and

(b) is resident, under a tax agreement that Canada has entered into with a particular country, in the particular country and not in Canada and consequently is deemed, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and because of subsection 5 of section 250 of that Act, not to be resident in Canada for the year;

“tax otherwise payable”.

“tax otherwise payable” by an individual under this Part for a taxation year means the tax payable by the individual for the year under this Part, computed without taking into account this chapter and sections 766.2 to 766.3, 767, 772.2 to 772.13, 772.14 to 776.1.6, 1183 and 1184.

History: 2012, c. 8, s. 137.

Credit.

772.13.2. An eligible individual for a taxation year may deduct from the individual's tax otherwise payable under this Part for the year the aggregate of all amounts each of which is an income tax the individual pays for the year to the government of a province, other than Québec, that may reasonably be considered to relate to the portion of the individual's income from an office or employment that is, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), included in computing the individual's taxable income earned in Canada for the year under subparagraph *i* of paragraph *a* of subsection 1 of section 115 of that Act and that is attributable to the duties performed by the individual in that province.

History: 2012, c. 8, s. 137.

Maximum deduction.

772.13.3. The deduction provided for in section 772.13.2 in respect of an eligible individual for a taxation year must not exceed the proportion, without exceeding 1, of the individual's tax otherwise payable under this Part for the year that the amount that is the portion of the individual's income from an office or employment that is, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), included in computing the individual's taxable income earned in Canada for the year under subparagraph *i* of paragraph *a* of subsection 1 of section 115 of that Act and that is attributable to the duties performed by the individual in a province other than Québec, except the portion of that amount that is deducted by the individual in computing the individual's taxable income for the year under paragraph *a* of section 725, is of the individual's taxable income for the year.

History: 2012, c. 8, s. 137.

CHAPTER I.1

TAX CREDIT RELATING TO A DESIGNATED TRUST

Interpretation.

772.14. In this chapter, “designated beneficiary” and “designated trust” have the meaning assigned by the first paragraph of section 671.5.

History: 2004, c. 21, s. 211; 2011, c. 6, s. 162.

Credit.

772.15. Subject to the second paragraph, a taxpayer who is a designated beneficiary under a designated trust for a taxation year of the designated trust may deduct from the taxpayer's tax otherwise payable under this Part for a particular taxation year, the income tax paid by the designated trust for the year to the government of a province, other than Québec, that relates to an amount that the designated trust has designated in respect of the taxpayer or a partnership of which the taxpayer is a member in its fiscal return filed for the year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 or 13.2 of section 104 of that Act, and that the taxpayer has included in computing the taxpayer's income for the particular year under section 662 or 663.

Proportion of a corporation's business.

If the taxpayer described in the first paragraph is a corporation that has, in the particular taxation year, an establishment in Québec and an establishment outside Québec, the amount that the taxpayer may deduct from the taxpayer's tax otherwise payable under this Part for the particular year, in accordance with the first paragraph, may not exceed the proportion of that amount otherwise determined that the corporation's business carried on in Québec is of the aggregate of the corporation's business carried on in Canada or in Québec and elsewhere in the particular year, as determined under subsection 2 of section 771.

Income tax paid to the government of a province.

The income tax paid by the designated trust for the year to the government of a province, other than Québec, that relates to a designated amount referred to in the first paragraph shall not exceed the tax that would have been otherwise payable by the designated trust in respect of that amount under this Part, if the designated trust had been resident in Québec on the last day of the year.

History: 2004, c. 21, s. 211; 2011, c. 6, s. 163.

Filing requirement.

772.16. A taxpayer may deduct an amount for a particular taxation year, under section 772.15, in relation to an amount designated by a designated trust in its fiscal return filed for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 or 13.2 of section 104 of that Act, only if the taxpayer encloses with the fiscal return the taxpayer is required to file for the particular year under section 1000, any document establishing the income tax paid by the designated trust to the government of a province, other than Québec, that relates to the designated amount.

History: 2004, c. 21, s. 211.

CHAPTER II

CREDIT FOR POLITICAL CONTRIBUTIONS

773. (Repealed).

History: 1976, c. 33, s. 49; 1986, c. 15, s. 121; 1988, c. 4, s. 66; 1989, c. 5, s. 123.

774. (Repealed).

History: 1976, c. 33, s. 49; 1986, c. 15, s. 121; 1988, c. 4, s. 66; 1989, c. 5, s. 123.

775. (Repealed).

History: 1976, c. 33, s. 49; 1989, c. 5, s. 123.

775.1. (Repealed).

History: 1986, c. 15, s. 122; 1989, c. 5, s. 124; 1997, c. 3, s. 71; 1999, c. 83, s. 111.

Deduction for an election contribution.

776. An individual who is an elector may deduct from the tax otherwise payable by the individual for a taxation year under this Part, in relation to any contribution of money made by the individual in the taxation year to the official representative of an authorized party or independent candidate or to the financial representative of a leadership candidate of an authorized party entitled to receive such a contribution under the Act respecting elections and referendums in municipalities (chapter E-2.2), except any contribution made by a candidate of an authorized party, an authorized independent candidate or a leadership candidate of an authorized party for the candidate's own benefit or for that of the party for which the candidate is running, an amount equal to the aggregate of

(a) 85% of the lesser of \$50 and the aggregate of all amounts each of which is such a contribution, and

(b) 75% of the amount by which \$50 is exceeded by the lesser of \$200 and the aggregate described in subparagraph *a*.

Refund.

For the purposes of this section, a contribution of money does not include a contribution, or a part thereof, made by an individual and in respect of which the individual has obtained, or is entitled to obtain, a refund or any other form of assistance.

Elector.

In this section, the expression “elector” has the meaning assigned to it by the Act respecting elections and referendums in municipalities.

History: 1977, c. 11, s. 135; 1982, c. 31, s. 118; 1983, c. 44, s. 29; 1984, c. 51, s. 552; 1988, c. 4, s. 67; 1989, c. 1, s. 603; 1989, c. 5, s. 125; 1995, c. 63, s. 83; 2001, c. 53, s. 137; 2002, c. 40, s. 81; 2005, c. 1, s. 183; 2010, c. 35, s. 40; 2010, c. 36, s. 12; 2011, c. 38, s. 59; 2012, c. 26, s. 22; 2016, c. 17, s. 111.

Corresponding Federal Provision: 127(3) and (4.1).

776.1. *(Repealed).*

History: 1980, c. 13, s. 69; 1981, c. 12, s. 10; 1982, c. 4, s. 4; 1984, c. 15, s. 180; 1985, c. 25, s. 132; 1986, c. 15, s. 123; 1988, c. 4, s. 68; 1989, c. 5, s. 126.

CHAPTER III CREDIT IN RESPECT OF A LABOUR-SPONSORED FUND

DIVISION I CREDIT

776.10.1. *(Repealed).*

History: 1995, c. 49, s. 175; 1995, c. 63, s. 84; 2001, c. 53, s. 139; 2005, c. 38, s. 182.

Amount paid for the purchase of a share.

776.10.2. For the purposes of this chapter, an amount paid for the purchase of a share referred to in paragraph *a* or *b* of section 776.1.1 consists solely of the issue price paid in respect of that share.

History: 2004, c. 21, s. 212.

Shares of the Fonds de solidarité des travailleurs du Québec and Fondation.

776.11. An individual who is not a dealer acting as an intermediary or as firm underwriter may deduct from his tax otherwise payable for a taxation year under this Part, 15% of the amount he pays in the year or within the following 60 days, to such extent as he did not deduct it for a preceding taxation year, for the purchase, as first purchaser, of

(a) a class “A” share issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1); or

(b) a class “A” or class “B” share issued by the corporation governed by the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi (chapter F-3.1.2).

History: 1983, c. 44, s. 30; 1987, c. 67, s. 153; 1988, c. 4, s. 69; 1989, c. 5, s. 127; 1995, c. 49, s. 176; 1995, c. 63, s. 85; 1997, c. 3, s. 71; 1997, c. 14, s. 133; 2001, c. 53, s. 140; 2005, c. 38, s. 183.

Corresponding Federal Provision: 127.4(1) “net cost”.

Increased rate.

776.11.1. If an amount is paid for the purchase, in a period specified in the second paragraph, of a share referred to in paragraph *b* of section 776.1.1, that section is to be read in respect of that share as if the percentage of 15% in that section were replaced by a percentage of 25%.

Capitalization period.

The period to which the first paragraph refers begins on 1 June 2009 and ends on 31 May 2015.

History: 2010, c. 5, s. 75; 2013, c. 10, s. 61.

Increased rate.

776.11.2. If an amount is paid for the purchase, in a period specified in the second paragraph, of a share referred to in paragraph *b* of section 776.1.1, that section is to be read in respect of that share as if the percentage of 15% in that section were replaced by a percentage of 20%.

Capitalization period.

The period to which the first paragraph refers begins on 1 June 2015 and ends on 31 May 2021.

History: 2017, c. 1, s. 222; 2097, c. 14, s. 257.

Deduction of undeducted amount.

776.12. An individual may deduct from his tax otherwise payable for a taxation year under this Part, an amount not exceeding the amount, if any, by which the balance of the amount he has not deducted under section 776.1.1 in respect of a share described therein, for the year or a preceding taxation year, exceeds any amount deducted under this section, in respect of the share, for a preceding taxation year.

History: 1983, c. 44, s. 30; 1988, c. 4, s. 70; 1989, c. 5, s. 127; 2001, c. 53, s. 141.

Corresponding Federal Provision: 127.2(1)(b) and (6) “unused share-purchase tax credit”.

Amount deductible.

776.13. The amount deductible by an individual for a taxation year under sections 776.1.1 and 776.1.2 must not exceed the amount determined by the formula

$$0.25A + 0.2B + 0.15C.$$

Interpretation.

In the formula in the first paragraph,

(a) A is 400% of the aggregate of all amounts each of which is the amount deducted by the individual for the year under section 776.1.1 or 776.1.2, in respect of a share referred to in section 776.1.1.1;

(b) B is 500% of the aggregate of all amounts each of which is the amount deducted by the individual for the year under section 776.1.1 or 776.1.2, in respect of a share referred to in section 776.1.1.2; and

(c) C is 100/15 of the aggregate of all amounts each of which is the amount deducted by the individual for the year under section 776.1.1 or 776.1.2 in respect of a share not referred to in section 776.1.1.1 or 776.1.1.2.

Maximum deductible.

The total of the amounts determined in accordance with subparagraphs *a* to *c* of the second paragraph in respect of an individual for a taxation year must not exceed \$5,000.

History: 1983, c. 44, s. 30; 1987, c. 67, s. 154; 1993, c. 19, s. 64; 1997, c. 14, s. 134; 2001, c. 53, s. 142; 2010, c. 5, s. 76; 2017, c. 1, s. 223.

Deductions not permitted.

776.1.4. In no case may an individual deduct, for a taxation year, an amount under section 776.1.1 or 776.1.2 in respect of an amount paid by the individual for the purchase of a share referred to in section 776.1.1 if

(a) the individual reached 45 years of age before the end of the year and availed himself of his right to retirement or early retirement;

(a.1) where the purchased share is held by a trust governed by a registered retirement savings plan or registered retirement income fund under which the annuitant is the individual's spouse, the spouse reached 45 years of age before the end of the year and availed himself of his right to retirement or early retirement;

(b) the individual reached 65 years of age before the end of the year or would have reached that age before that time had the individual not died in the year;

(b.1) where the purchased share is held by a trust governed by a registered retirement savings plan or registered retirement income fund under which the annuitant is the individual's spouse, the spouse reached 65 years of age before the end of the year or would have reached that age before that time had the spouse not died in the year;

(c) during the year or within the following 120 days, a person requested redemption of the share in accordance with paragraph 4 of section 10 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1); or

(d) during the year or within the following 120 days, a person requested redemption of the share, or a class "A" share received in exchange for the share, in accordance with paragraph 4 of section 11 of the Act to establish Fondation,

le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (chapter F-3.1.2).

Right to retirement or early retirement.

For the purposes of subparagraphs *a* and *a.1* of the first paragraph, an individual is deemed not to have availed himself of his right to retirement or early retirement at the end of a taxation year if

(a) the aggregate of the individual's pensionable salary and wages for the year, determined in accordance with section 45 of the Act respecting the Québec Pension Plan (chapter R-9) and as if that section were read without reference to subparagraph *b* of the second paragraph thereof, and the individual's income for the year from a business exceeds the amount of Basic Exemption determined for the year in accordance with section 42 of that Act; and

(b) the individual did not, before the end of the year, reach 65 years of age or obtain the redemption of a share under section 10 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) or section 11 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi.

Deemed redemption.

The following rules apply for the purposes of subparagraph *b* of the second paragraph:

(a) an individual is deemed to have obtained the redemption of a share under section 10 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) before the end of a taxation year ending after 31 December 2007 if the share was purchased before 20 December 2008 by the entity governed by that Act as a consequence of the application of any of the criteria of its purchase by agreement policy regarding early retirement or progressive retirement; and

(b) an individual is deemed to have obtained the redemption of a share under section 11 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi before the end of a taxation year ending after 31 December 2008 if the share was purchased before 30 October 2009 by the entity governed by that Act as a consequence of the application of any of the criteria of its purchase by agreement policy regarding early retirement or progressive retirement.

History: 1983, c. 44, s. 30; 1995, c. 63, s. 86; 1997, c. 14, s. 135; 1997, c. 85, s. 171; 2005, c. 1, s. 184; 2005, c. 38, s. 184; 2011, c. 6, s. 164.

Deduction not permitted.

776.1.4.1. In no case may an individual deduct an amount under section 776.1.1 or 776.1.2 in respect of a share purchased after the individual, or the spouse where the

purchased share is held by a trust governed by a registered retirement savings plan or registered retirement income fund under which the annuitant is the individual's spouse, makes a request for redemption in accordance with paragraph 5 of section 10 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1) or paragraph 5 of section 11 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (chapter F-3.1.2).

History: 1989, c. 5, s. 128; 1995, c. 63, s. 86; 1997, c. 14, s. 136; 2005, c. 38, s. 185.

Deduction not permitted.

776.1.4.2. In no case may an individual deduct an amount under section 776.1.1 or 776.1.2 in respect of an amount paid by the individual for the acquisition of a replacement share within the meaning assigned by sections 776.1.5.0.1 and 776.1.5.0.6, under the rules provided for that purpose in Division II or III, as the case may be.

History: 2001, c. 53, s. 143; 2003, c. 2, s. 236; 2005, c. 38, s. 186.

Late purchase.

776.1.4.3. Where the Minister so directs, an individual who, in a taxation year, pays an amount, other than an amount paid in the first 60 days of the year, for the purchase as first purchaser of a share described in paragraph *a* or *b* of section 776.1.1, is deemed, for the purposes of this division, to have paid that amount at the beginning of the year and not at the time it was actually paid.

History: 2003, c. 2, s. 237; 2005, c. 38, s. 187.

Corresponding Federal Provision: 127.4(5.1).

Return.

776.1.5. An individual who avails himself of section 776.1.1 or 776.1.2 for a taxation year, in respect of a share referred to in section 776.1.1, shall file the fiscal return provided for in section 1000 for the year and attach to the return a copy of the prescribed form he received in respect of the share from a corporation governed by an Act establishing a labour-sponsored fund.

Exception.

However, an individual is not required to attach a copy of the prescribed form referred to in the first paragraph for a share in respect of which he avails himself of section 776.1.2 for a taxation year, if he availed himself of section 776.1.1 in respect of that share for a previous taxation year.

History: 1983, c. 44, s. 30; 1995, c. 63, s. 86; 1997, c. 3, s. 71.

DIVISION II

REDEMPTION OF SHARES OF A LABOUR-SPONSORED FUND IN ORDER TO PARTICIPATE IN THE HOME BUYERS' PLAN

§1. — Definitions and application

Definitions:

776.1.5.0.1. In this division,

“completion date”;

“completion date”, in respect of an eligible amount of an individual, means 1 October of the calendar year following the calendar year in which the eligible amount was received by the individual;

“eligible amount”;

“eligible amount” of an individual means an amount received by the individual, at a particular time, on the redemption, in the circumstances described in the second paragraph, by a corporation referred to in section 776.1.1 of an original share;

“original share”;

“original share” means a class “A” share described in section 776.1.1 issued to an individual by a corporation referred to in that section and held by a trust governed by a registered retirement savings plan under which the annuitant is the individual or the individual's spouse;

“participation period”;

“participation period” of an individual means each period that begins at the beginning of the calendar year in which an eligible amount of the individual is received and that ends immediately before the beginning of the first subsequent calendar year at the beginning of which the individual's specified balance is nil;

“replacement share”;

“replacement share” means a class “A” share described in section 776.1.1 issued to an individual by a corporation referred to in that section in replacement of an original share that was redeemed in the circumstances described in the second paragraph;

“specified balance”.

“specified balance” of an individual at any time means an amount equal to the amount by which the aggregate of all the individual's eligible amounts received by the individual at or before that time exceeds the aggregate of all amounts each of which is

(a) an amount paid by the individual under section 776.1.5.0.2 or 776.1.5.0.3 on the acquisition of replacement shares in a taxation year that ended before that time;

(b) 100/15 of an amount that the individual is required to pay under section 1086.14 or 1086.16 for a taxation year that ended before that time in respect of replacement shares that were not acquired by the individual and that relate to original

shares other than original shares described in paragraph *c* or *d*;

(*c*) 400% of an amount that the individual is required to pay under section 1086.14 or 1086.16 for a taxation year that ended before that time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1; or

(*d*) 500% of an amount that the individual is required to pay under section 1086.14 or 1086.16 for a taxation year that ended before that time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

Application.

This division applies if the annuitant under a registered retirement savings plan makes a request for redemption of original shares, at a particular time, pursuant to a purchase by agreement policy provided for in the second paragraph of section 8 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1) or the second paragraph of section 9 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (chapter F-3.1.2) in order to participate in the Home Buyers' Plan, the provisions of which are provided for in Title IV.1 of Book VII.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 238; 2005, c. 38, s. 188; 2011, c. 1, s. 41; 2017, c. 1, s. 224.

§2. — *Replacement shares*

Acquisition of replacement shares.

776.1.5.0.2. Where at a particular time a corporation referred to in section 776.1.1 redeems original shares in the circumstances described in the second paragraph of section 776.1.5.0.1, the individual shall, in a particular taxation year or within 60 days after the end of that year that is included in a particular participation period of the individual, acquire replacement shares for an amount determined by the formula

$$[(A - B) / (15 - C)].$$

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is

i. an amount equal to zero where

(1) the individual died or ceased to be resident in Canada in the particular taxation year, or

(2) the completion date in respect of an eligible amount of the individual is in the particular taxation year, and

ii. in any other case, the aggregate of all eligible amounts of the individual received by the individual in taxation years preceding the particular taxation year and that are included in the particular participation period of the individual;

(*b*) B is the aggregate of all amounts each of which is

i. an amount paid by the individual on the acquisition of replacement shares in a taxation year preceding the particular taxation year or within 60 days after the end of that preceding year that is included in the particular participation period of the individual,

ii. 100/15 of an amount that the individual is required to pay under section 1086.14 for a taxation year that precedes the particular taxation year and that is included in the particular participation period of the individual in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in subparagraph iii or iv,

iii. 400% of an amount that the individual is required to pay under section 1086.14 for a taxation year that precedes the particular taxation year and that is included in the particular participation period of the individual in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1, or

iv. 500% of an amount that the individual is required to pay under section 1086.14 for a taxation year that precedes the particular taxation year and that is included in the particular participation period of the individual in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2; and

(*c*) C is the lesser of 14 and the number of taxation years of the individual that end in the period that begins on 1 January of the first calendar year beginning after the completion date in respect of an eligible amount of the individual and that ends at the beginning of the particular taxation year.

Late acquisition.

Where the Minister so directs, an individual who, in a taxation year, pays an amount, other than an amount paid in the first 60 days of the year, for the acquisition of replacement shares, is deemed to have paid that amount at

the beginning of the year and not at the time it was actually paid.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 239; 2005, c. 38, s. 189; 2011, c. 1, s. 42; 2017, c. 1, s. 225.

Corresponding Federal Provision: 127.4(5.1).

Where an individual ceases to be resident in Canada.

776.15.0.3. If at a particular time in a taxation year an individual ceases to be resident in Canada, the individual shall acquire replacement shares, for the period in the year during which the individual was resident in Canada, for an amount equal to the amount by which the aggregate of all amounts each of which is an eligible amount of the individual received by the individual in the year or a preceding taxation year exceeds the aggregate of all amounts each of which is

(a) an amount paid by the individual under section 776.1.5.0.2 on the acquisition of replacement shares not later than 60 days after the particular time and before the individual files a fiscal return for the year;

(b) 100/15 of an amount that the individual is required to pay under section 1086.14 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in paragraph *c* or *d*;

(c) 400% of an amount that the individual is required to pay under section 1086.14 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1; or

(d) 500% of an amount that the individual is required to pay under section 1086.14 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 240; 2005, c. 38, s. 190; 2011, c. 1, s. 43; 2017, c. 1, s. 226.

Where an individual dies.

776.15.0.4. If an individual dies at a particular time in a taxation year, replacement shares must be acquired, in the year or within 60 days after the end of the year, for an amount equal to the amount by which the aggregate of all amounts each of which is an eligible amount of the individual received by the individual in the year or a preceding taxation year exceeds the aggregate of all amounts each of which is

(a) an amount paid by the individual under section 776.1.5.0.2 on the acquisition of replacement shares before the particular time;

(b) 100/15 of an amount that the individual is required to pay under section 1086.14 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in paragraph *c* or *d*;

(c) 400% of an amount that the individual is required to pay under section 1086.14 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1; or

(d) 500% of an amount that the individual is required to pay under section 1086.14 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 240; 2005, c. 38, s. 191; 2011, c. 1, s. 43; 2017, c. 1, s. 227.

Spouse of a deceased individual.

776.15.0.5. Where an individual's spouse was resident in Canada immediately before the individual's death at a particular time in a taxation year and the spouse and the individual's legal representative jointly so elect in writing in the individual's fiscal return filed under this Part for the year, the following rules apply:

(a) section 776.1.5.0.4 does not apply in respect of the individual;

(b) a particular eligible amount equal to the amount that would, but for this section, be determined under section 776.1.5.0.4 in respect of the individual is deemed to have been received by the spouse, at the particular time;

(c) for the purposes of section 776.1.5.0.2 and paragraph *d*, the completion date in respect of the particular eligible amount referred to in paragraph *b* is deemed to be

i. if an eligible amount was received by the spouse before the death, other than an eligible amount received in the spouse's participation period that ended before the beginning of the year, the completion date in respect of that eligible amount, and

ii. in any other case, the completion date in respect of the last eligible amount of the individual; and

(d) for the purposes of section 776.1.5.0.2, the completion date in respect of each eligible amount of the spouse, after the death and before the end of the spouse's participation period that includes the time of the death, is deemed to be the completion date in respect of the particular eligible amount referred to in paragraph *b*.

History: 2001, c. 53, s. 144.

DIVISION III REDEMPTION OF SHARES OF A LABOUR-SPONSORED FUND IN ORDER TO PARTICIPATE IN THE LIFELONG LEARNING INCENTIVE PLAN

§1. — *Definitions and application*

Definitions:

776.1.5.0.6. In this division,

“eligible amount”;

“eligible amount” of an individual means an amount received by the individual, at a particular time, on the redemption, in the circumstances described in the second paragraph, by a corporation referred to in section 776.1.1 of an original share;

“original share”;

“original share” means a class “A” share described in section 776.1.1 issued to an individual by a corporation referred to in that section and held by a trust governed by a registered retirement savings plan under which the annuitant is the individual or the individual's spouse;

“participation period”;

“participation period” of an individual means each period that begins at the beginning of the calendar year in which an eligible amount of the individual is received and at the beginning of which the individual's specified balance is nil and that ends immediately before the beginning of the first subsequent calendar year at the beginning of which the individual's specified balance is nil;

“repayment period”;

“repayment period” has the meaning assigned by the first paragraph of section 935.12;

“replacement share”;

“replacement share” means a class “A” share described in section 776.1.1 issued to an individual by a corporation referred to in that section in replacement of an original share that was redeemed in the circumstances described in the second paragraph;

“specified balance”.

“specified balance” of an individual at any time means an amount equal to the amount by which the aggregate of all the individual's eligible amounts received by the individual at or before that time exceeds the aggregate of all amounts each of which is

(a) an amount paid by the individual under section 776.1.5.0.7 or 776.1.5.0.8 on the acquisition of replacement shares in a taxation year that ended before that time;

(b) 100/15 of an amount that the individual is required to pay under section 1086.20 or 1086.22 for a taxation year that ended before that time in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in paragraph *c* or *d*;

(c) 400% of an amount that the individual is required to pay under section 1086.20 or 1086.22 for a taxation year that ended before that time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1; or

(d) 500% of an amount that the individual is required to pay under section 1086.20 or 1086.22 for a taxation year that ended before that time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

Application.

This division applies if the annuitant under a registered retirement savings plan makes a request for redemption of original shares, at a particular time, pursuant to a purchase by agreement policy provided for in the second paragraph of section 8 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1) or the second paragraph of section 9 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (chapter F-3.1.2) in order to participate in the Lifelong Learning Incentive Plan, the provisions of which are provided for in Title IV.2 of Book VII.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 241; 2005, c. 38, s. 192; 2011, c. 1, s. 44; 2017, c. 1, s. 228.

§2. — *Replacement shares*

Acquisition of replacement shares.

776.1.5.0.7. Where at a particular time a corporation referred to in section 776.1.1 redeems original shares in the circumstances described in the second paragraph of section 776.1.5.0.6, the individual shall, in a particular taxation year or within 60 days after the end of that year that begins after 31 December 2000, acquire replacement shares for an amount determined by the formula

$$[(A - B) / (10 - C)].$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. an amount equal to zero where

(1) the individual died or ceased to be resident in Canada in the particular taxation year, or

(2) the beginning of the particular taxation year is not included in a repayment period of the individual, and

ii. in any other case, the aggregate of all eligible amounts of the individual received by the individual in taxation years preceding the particular taxation year, other than taxation years included in participation periods of the individual that ended before the particular taxation year;

(b) B is the aggregate of all amounts each of which is

i. an amount paid by the individual on the acquisition of replacement shares in a taxation year preceding the particular taxation year or within 60 days after the end of that preceding year, other than a taxation year included in a participation period of the individual that ended before the particular taxation year,

ii. 100/15 of an amount that the individual is required to pay under section 1086.20 for a taxation year preceding the particular taxation year, other than a taxation year included in a participation period of the individual that ended before the particular taxation year, in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in subparagraph iii or iv,

iii. 400% of an amount that the individual is required to pay under section 1086.20 for a taxation year preceding the particular taxation year, other than a taxation year included in a participation period of the individual that ended before the particular taxation year, in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1, or

iv. 500% of an amount that the individual is required to pay under section 1086.20 for a taxation year preceding the particular taxation year, other than a taxation year included in a participation period of the individual that ended before the particular taxation year, in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2; and

(c) C is the lesser of nine and the number of taxation years of the individual that end in the period that begins at the

beginning of the last repayment period of the individual that began at or before the beginning of the particular year and that ends at the beginning of the particular year.

Late acquisition.

Where the Minister so directs, an individual who, in a taxation year, pays an amount, other than an amount paid in the first 60 days of the year, for the acquisition of replacement shares, is deemed to have paid that amount at the beginning of the year and not at the time it was actually paid.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 242; 2005, c. 38, s. 193; 2011, c. 1, s. 45; 2017, c. 1, s. 229.

Corresponding Federal Provision: 127.4(5.1).

Where an individual ceases to be resident in Canada.

776.1.5.0.8. If at a particular time in a taxation year an individual ceases to be resident in Canada, the individual shall acquire replacement shares, for the period in the year during which the individual was resident in Canada, for an amount equal to the amount by which the aggregate of all amounts each of which is an eligible amount of the individual received by the individual in the year or a preceding taxation year exceeds the aggregate of all amounts each of which is

(a) an amount paid by the individual under section 776.1.5.0.7 on the acquisition of replacement shares not later than 60 days after the particular time and before the individual files a fiscal return for the year;

(b) 100/15 of an amount that the individual is required to pay under section 1086.20 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in paragraph *c* or *d*;

(c) 400% of an amount that the individual is required to pay under section 1086.20 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1; or

(d) 500% of an amount that the individual is required to pay under section 1086.20 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 243; 2005, c. 38, s. 194; 2011, c. 1, s. 46; 2017, c. 1, s. 230.

Where an individual dies.

776.1.5.0.9. If an individual dies at a particular time in a taxation year, replacement shares must be acquired, in the year or within 60 days after the end of the year, for an amount equal to the amount by which the aggregate of all amounts each of which is an eligible amount of the individual received by the individual in the year or a preceding taxation year exceeds the aggregate of all amounts each of which is

(a) an amount paid by the individual under section 776.1.5.0.7 on the acquisition of replacement shares before the particular time;

(b) 100/15 of an amount that the individual is required to pay under section 1086.20 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares other than original shares described in paragraph *c* or *d*;

(c) 400% of an amount that the individual is required to pay under section 1086.20 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.1; or

(d) 500% of an amount that the individual is required to pay under section 1086.20 for a taxation year that ended before the particular time in respect of replacement shares that were not acquired by the individual and that relate to original shares referred to in paragraph *b* of section 776.1.1 and acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

History: 2001, c. 53, s. 144; 2003, c. 2, s. 243; 2005, c. 38, s. 195; 2011, c. 1, s. 46; 2017, c. 1, s. 231.

Spouse of a deceased individual.

776.1.5.0.10. Where an individual's spouse was resident in Canada immediately before the individual's death at a particular time in a taxation year and the spouse and the individual's legal representative jointly so elect in writing in the individual's fiscal return filed under this Part for the year, the following rules apply:

(a) section 776.1.5.0.9 does not apply in respect of the individual;

(b) a particular eligible amount equal to the amount that would, but for this section, be determined under section 776.1.5.0.9 in respect of the individual is deemed to have been received by the spouse, at the particular time;

(c) subject to paragraph *d*, for the purposes of this division after the particular time, the individual's repayment period in

respect of the particular amount is deemed to be the spouse's repayment period; and

(d) paragraph *c* does not apply if an eligible amount was received by the spouse before the particular time in the spouse's participation period that includes the particular time.

History: 2001, c. 53, s. 144.

CHAPTER IV
CREDITS RELATING TO SHARES ISSUED BY
CAPITAL RÉGIONAL ET COOPÉRATIF
DESJARDINS

DIVISION I
CREDIT RELATING TO THE ACQUISITION OF
CLASS "A" SHARES ISSUED BY CAPITAL
RÉGIONAL ET COOPÉRATIF DESJARDINS

"acquisition period".

776.1.5.0.10.1. In this division, "acquisition period" means any of the following periods:

(a) the period that begins on 24 March 2006 and ends on 28 February 2007;

(b) the period that begins on 1 March 2007 and ends on 9 November 2007;

(c) the period that begins on 10 November 2007 and ends on 29 February 2008;

(d) a period that begins on 1 March of a year after 2007 and before 2014 and ends on the last day of the month of February of the following year;

(e) a period that begins on 1 March of a year after 2013 and before 2016 and ends on the last day of the month of February of the following year;

(f) a period that begins on 1 March of a year after 2015 and before 2018 and ends on the last day of the month of February of the following year; or

(g) a period that begins on 1 March of a year after 2017 and ends on the last day of the month of February of the following year.

Period ending on a statutory holiday.

If the period described in the first paragraph ends on a statutory holiday, the period is deemed to end on the day immediately before the statutory holiday.

History: 2011, c. 6, s. 165; 2015, c. 21, s. 317; 2017, c. 1, s. 232; 2019, c. 14, s. 260.

Tax credit.**Tax credit.**

776.1.5.0.11. An individual, other than a trust, who is resident in Québec at the end of 31 December of a particular taxation year and who is not a dealer acting as an intermediary or firm underwriter may deduct from the individual's tax otherwise payable for the particular year under this Part an amount equal to the product obtained by multiplying the percentage specified in the second paragraph by the aggregate of the amounts paid by the individual in an acquisition period beginning in the particular year for the purchase, as first purchaser, of a class "A" share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1).

Tax credit rate.

The percentage to which the first paragraph refers is

(a) 35%, if the acquisition period referred to in that paragraph is described in any of subparagraphs a, b and g of the first paragraph of section 776.1.5.0.10.1;

(b) 50%, if the acquisition period referred to in that paragraph is described in subparagraph c or d of the first paragraph of section 776.1.5.0.10.1;

(c) 45%, if the acquisition period referred to in that paragraph is described in subparagraph e of the first paragraph of section 776.1.5.0.10.1; and

(d) 40%, if the acquisition period referred to in that paragraph is described in subparagraph f of the first paragraph of section 776.1.5.0.10.1.

Maximum amount.

The aggregate referred to in the first paragraph may not exceed,

(a) if the acquisition period referred to in that paragraph is described in subparagraph a or b of the first paragraph of section 776.1.5.0.10.1, \$2,500;

(b) if the acquisition period referred to in that paragraph is described in subparagraph c of the first paragraph of section 776.1.5.0.10.1, the amount by which \$5,000 exceeds the lesser of \$2,500 and the aggregate of the amounts paid by the individual in the preceding acquisition period for the purchase, as first purchaser, of a share described in the first paragraph; or

(c) if the acquisition period referred to in that paragraph is described in any of subparagraphs d to g of the first paragraph of section 776.1.5.0.10.1, \$5,000.

History: 2002, c. 9, s. 24; 2003, c. 9, s. 106; 2004, c. 21, s. 213; 2006, c. 36, s. 81; 2011, c. 6, s. 166; 2015, c. 21, s. 318; 2017, c. 1, s. 233; 2019, c. 14, s. 261.

776.1.5.0.12. *(Repealed).*

History: 2002, c. 9, s. 24; 2006, c. 36, s. 82; 2011, c. 6, s. 167.

Deduction not permitted.

776.1.5.0.13. No individual may deduct, for a particular taxation year, an amount under section 776.1.5.0.11 in respect of an amount paid by the individual in the acquisition period referred to in the first paragraph of that section for the acquisition of a share referred to in that section if

(a) during that period or within the following 30 days, the individual requested redemption of the share in accordance with paragraph 3 of section 12 of the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1); or

(b) the corporation governed by the Act constituting Capital régional et coopératif Desjardins, before 1 March of the year following the particular year, in relation to another share of the capital stock of that corporation held by the individual,

i. redeems the share in accordance with paragraph 1 or 4 of section 12 of that Act, or

ii. purchases the share in accordance with the purchase by agreement policy approved by the Minister of Finance under the second paragraph of section 11 of that Act, except where the purchase is made in accordance with a provision of that policy under which the corporation may purchase by agreement a share it issued because no amount was deducted in respect of the share under any of sections 776.1.5.0.11, 776.1.5.0.15.2 and 776.1.5.0.15.4.

Taxation year 2007.

For the purposes of the first paragraph, the acquisition periods described in subparagraphs b and c of the first paragraph of section 776.1.5.0.10.1 are deemed to be a single acquisition period that begins on 1 March 2007 and ends on 29 February 2008.

History: 2002, c. 9, s. 24; 2003, c. 9, s. 107; 2011, c. 6, s. 168; 2019, c. 14, s. 262.

Prescribed form.

776.1.5.0.14. An individual who elects to have section 776.1.5.0.11 apply for a taxation year, in respect of a share referred to in that section, shall enclose with the fiscal return the individual is required to file under section 1000 for the year, a copy of the prescribed form the individual received in respect of the share of the corporation governed

by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1).

History: 2002, c. 9, s. 24.

Amount paid for the purchase of a share.

776.1.5.0.15. For the purposes of this division, an amount paid for the purchase of a class “A” share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) consists solely of the issue price paid in respect of that share.

History: 2004, c. 21, s. 214; 2019, c. 14, s. 263.

DIVISION II CREDITS RELATING TO THE EXCHANGE OF SHARES ISSUED BY CAPITAL RÉGIONAL ET COOPÉRATIF DESJARDINS

Definitions :

776.1.5.0.15.1. In this division,

“conversion period”;

“conversion period” means a period that begins on 1 March of a year subsequent to the year 2017 and preceding the year 2021 and that ends on the last day of the month of February of the following year;

“promise to purchase by way of exchange”.

“promise to purchase by way of exchange” has the meaning assigned by section 8.1 of the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1).

History: 2019, c. 14, s. 264.

Credit related to a promise to purchase by way of exchange.

776.1.5.0.15.2. Subject to section 776.1.5.0.15.3, an individual, other than a trust, who is resident in Québec at the end of 31 December of a taxation year and who is not a dealer acting as an intermediary or firm underwriter may deduct from the individual’s tax otherwise payable for the year under this Part, if the individual encloses the document described in the second paragraph with the fiscal return the individual is required to file for the year under section 1000, an amount equal to the lesser of \$1,500 and the product obtained by multiplying by 10% the aggregate of all amounts each of which is the value of the consideration the individual has undertaken to pay, in the form of a share, under a promise to purchase by way of exchange, which promise the individual made at a particular time, before 19 June 2019, in a conversion period beginning in the year.

Document.

The document to which the first paragraph refers is a copy of the prescribed form the individual received from the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) in respect of the consideration described in that paragraph.

Value of the consideration.

For the purposes of the first paragraph, the value of the consideration that an individual has undertaken to pay, in the form of a share, under a promise to purchase by way of exchange corresponds to the amount determined in respect of the individual, in relation to that promise, under subparagraph *a* of subparagraph 2 of the second paragraph of section 10.1 of the Act constituting Capital régional et coopératif Desjardins.

History: 2019, c. 14, s. 264.

Restriction.

776.1.5.0.15.3. No individual may deduct, from the individual’s tax otherwise payable for a particular taxation year, an amount under section 776.1.5.0.15.2, where the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1), before 1 March of the year following the particular year, in relation to a share of its capital stock held by the individual,

(a) redeemed the share in accordance with paragraph 1 or 4 of section 12 of that Act; or

(b) purchased the share in accordance with the purchase by agreement policy approved by the Minister of Finance under the second paragraph of section 11 of that Act, except where the purchase is made in accordance with a provision of that policy under which the corporation may purchase by agreement a share it issued because no amount was deducted in respect of the share under any of sections 776.1.5.0.11, 776.1.5.0.15.2 and 776.1.5.0.15.4.

History: 2019, c. 14, s. 264.

Credit related to a promise to purchase by way of exchange.

776.1.5.0.15.4. Subject to section 776.1.5.0.15.5, an individual, other than a trust, who is resident in Québec at the end of 31 December of a taxation year and who is not a dealer acting as an intermediary or firm underwriter may deduct from the individual’s tax otherwise payable for the year under this Part, if the individual encloses the document described in the second paragraph with the fiscal return the individual is required to file for the year under section 1000, an amount equal to the lesser of \$1,500 and the product obtained by multiplying by 10% the aggregate of all amounts each of which is the value of the consideration the individual paid, in the form of a share, in a conversion period beginning in the year for the purchase, as first purchaser, of a class “B” share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1).

Document.

The document to which the first paragraph refers is a copy of the prescribed form the individual received from the corporation governed by the Act constituting Capital régional

et coopératif Desjardins in respect of the consideration described in that paragraph.

Value of the consideration.

For the purposes of the first paragraph, the value of the consideration paid, in the form of a share, by an individual corresponds to the amount determined in respect of the individual, in relation to that consideration, under subparagraph *b* of subparagraph 2 of the second paragraph of section 10.1 of the Act constituting Capital régional et coopératif Desjardins.

History: 2019, c. 14, s. 264.

Deductions not permitted.

776.1.5.0.15.5. No individual may deduct, from the individual's tax otherwise payable for a particular taxation year, an amount under section 776.1.5.0.15.4 in respect of the value of a consideration the individual paid in the conversion period described in the first paragraph of that section for the purchase of a class "B" share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1), where, as the case may be,

(a) the individual paid the consideration in fulfilment of a promise to purchase by way of exchange;

(b) the individual requested, during that conversion period or within the following 30 days, the redemption of the class "B" share in accordance with paragraph 3 of section 12 of the Act constituting Capital régional et coopératif Desjardins; or

(c) the corporation governed by the Act constituting Capital régional et coopératif Desjardins, before 1 March of the year following the particular year, in relation to another share of its capital stock held by the individual,

i. redeemed the share in accordance with paragraph 1 or 4 of section 12 of that Act, or

ii. purchased the share in accordance with the purchase by agreement policy approved by the Minister of Finance under the second paragraph of section 11 of that Act, otherwise than under a provision of that policy that allows the corporation to purchase by agreement a share it issued because no amount was deducted in respect of the share under any of sections 776.1.5.0.11, 776.1.5.0.15.2 and 776.1.5.0.15.4.

History: 2019, c. 14, s. 264.

CHAPTER V

TAX CREDIT FOR NEW GRADUATES WORKING IN THE RESOURCE REGIONS

Definitions:

776.1.5.0.16. In this chapter,

"eligible employment";

"eligible employment" of an individual means an office or employment the duties of which are ordinarily performed by the individual in an eligible region and are related

(a) to a business carried on by the individual's employer in that region; and

(b) to the knowledge and skills obtained by the individual in the course of the training or program leading to the awarding of a recognized diploma;

"eligible individual";

"eligible individual" for a taxation year, in relation to an eligible employment, means an individual who, at the end of 31 December of the year, is resident in Québec in an eligible region and

(a) begins to hold the eligible employment at a time in the year that is within the 24-month period that follows the date on which the individual successfully completes the courses and, where applicable, the internships leading to the awarding of the recognized diploma, or, where the recognized diploma is a master's or doctoral degree, the date on which the individual obtains the diploma under an educational program requiring the writing of an essay, dissertation or thesis; or

(b) holds the eligible employment in the year and is resident in an eligible region throughout the period that begins at the end of 31 December of the last taxation year for which the individual may deduct an amount from the individual's tax otherwise payable under this chapter, or is deemed to have paid an amount to the Minister on account of the individual's tax payable under Division II.20 of Chapter III.1 of Title III of Book IX, and that ends at the end of 31 December of the year;

"eligible region";

"eligible region" means

(a) one of the following administrative regions described in the Décret concernant la révision des limites des régions administratives du Québec (chapter D-11, r. 1):

i. administrative region 01 Bas-Saint-Laurent,

ii. administrative region 02 Saguenay–Lac-Saint-Jean,

iii. administrative region 08 Abitibi-Témiscamingue,

iv. administrative region 09 Côte-Nord,

v. administrative region 10 Nord-du-Québec, or

vi. administrative region 11 Gaspésie–Îles-de-la-Madeleine;

(b) one of the following regional county municipalities:

- i. Municipalité régionale de comté d'Antoine-Labelle,
- ii. Municipalité régionale de comté de La Vallée-de-la-Gatineau,
- iii. Municipalité régionale de comté de Mékinac, or
- iv. Municipalité régionale de comté de Pontiac; or

(c) the urban agglomeration of La Tuque, as described in section 8 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);

“recognized diploma”;

“recognized diploma” means

(a) an attestation of vocational education, a diploma of vocational studies or an attestation of vocational specialization, awarded by the Minister of Education, Recreation and Sports;

(b) a diploma of college studies in technical training awarded by the Minister of Higher Education, Research, Science and Technology or by a college-level educational institution to which the Minister of Higher Education, Research, Science and Technology has delegated the responsibility of awarding such a diploma;

(c) an attestation of college studies in technical training awarded by a college-level educational institution of Québec;

(d) an undergraduate or graduate diploma or degree awarded by a Québec university;

(e) a diploma awarded by an educational institution situated outside Canada that is considered, following a comparative assessment carried out by the Minister of Immigration and Cultural Communities, to be comparable to one of the diplomas referred to in paragraphs *a* to *d*;

(e.1) any of the following diplomas awarded by an educational institution situated outside Québec but in Canada:

i. a diploma that is considered, following a comparative assessment carried out by the Minister of Immigration and Cultural Communities before 1 July 2015, to be comparable to one of the diplomas referred to in paragraphs *a* to *c*,

ii. a diploma that, as certified in writing by the educational institution, is comparable to one of the diplomas referred to in paragraphs *a* to *c*, or

iii. an undergraduate or graduate diploma or degree awarded by a university; or

(f) an attestation of studies for a post-secondary educational program of the Conservatoire de musique et d'art dramatique du Québec, the École du Barreau du Québec, the École

nationale de police du Québec or the National Theatre School of Canada.

“recognized post-secondary diploma”;

“recognized post-secondary diploma” means

(a) a diploma referred to in any of paragraphs *b* to *d* and *f* of the definition of “recognized diploma” or in subparagraph iii of paragraph *e.1* of that definition; or

(b) a diploma that is considered, under paragraph *e* of the definition of “recognized diploma” or subparagraph i or ii of paragraph *e.1* of that definition, to be comparable to one of the diplomas referred to in paragraphs *b* to *d* of that definition;

“specified employment”.

“specified employment” of an individual means an eligible employment of the individual that the individual begins to hold after 20 March 2012 and in respect of which the following conditions are met:

(a) the recognized diploma to which paragraph *b* of the definition of “eligible employment” refers, in relation to that employment, is a recognized post-secondary diploma; and

(b) the individual

i. began to hold the employment within the 24-month period that follows the date on which the individual successfully completed the courses and, where applicable, the internships leading to the awarding of the recognized diploma, or, where the diploma is a master's or doctoral degree, the date on which the individual obtained the diploma under an educational program requiring the writing of an essay, dissertation or thesis, or

ii. held a former employment that is a specified employment of the individual.

Death of an eligible individual.

For the purposes of the definition of “eligible individual” in the first paragraph, an individual who was resident in Québec in an eligible region immediately before the individual's death is deemed to be resident in Québec in an eligible region throughout the period that begins at the time of the individual's death and ends at the end of 31 December of the year in which the individual died.

History: 2006, c. 36, s. 83; 2013, c. 10, s. 62; 2013, c. 28, s. 140; 2015, c. 36, s. 52.

Tax credit for new graduates.

776.15.0.17. An eligible individual for a taxation year may deduct from the eligible individual's tax otherwise payable for the year under this Part an amount equal to the lesser of

(a) \$3,000; and

(b) the total of

i. the lesser of

(1) 40% of the aggregate of all amounts each of which is the salary or wages of the individual for the year from any eligible employment of the individual, other than a specified employment, in respect of which the individual is an eligible individual for the year, and

(2) the amount by which \$8,000 exceeds the aggregate of all amounts each of which is an amount that the individual has deducted from the individual's tax otherwise payable under this chapter or is deemed to have paid to the Minister on account of the individual's tax payable under Division II.20 of Chapter III.1 of Title III of Book IX, for a preceding taxation year, and

ii. the lesser of

(1) 40% of the aggregate of all amounts each of which is the salary or wages of the individual for the year from any specified employment of the individual in respect of which the individual is an eligible individual for the year, and

(2) the amount by which \$10,000 exceeds the aggregate of all amounts each of which is either an amount that the individual has deducted from the individual's tax otherwise payable under this chapter or is deemed to have paid to the Minister on account of the individual's tax payable under Division II.20 of Chapter III.1 of Title III of Book IX, for a preceding taxation year, or the amount determined for the year in accordance with subparagraph i.

History: 2006, c. 36, s. 83; 2007, c. 12, s. 90; 2013, c. 10, s. 63.

Individual who is no longer resident in an eligible region.

776.15.0.18. An individual who, at the end of 31 December of a taxation year, is resident in Québec outside an eligible region and who receives in the taxation year a salary or wages attributable to duties performed, in the preceding taxation year, in the course of an eligible employment, may deduct from the individual's tax otherwise payable for the year an amount equal to the amount by which the amount that the individual could have deducted from the individual's tax otherwise payable for the preceding taxation year, under section 776.1.5.0.17, if the salary or wages had been received in the preceding taxation year, exceeds the amount that the individual has deducted from the individual's tax otherwise payable for the preceding taxation year under section 776.1.5.0.17.

Death of an individual.

For the purposes of the first paragraph, an individual who was resident in Québec outside an eligible region immediately before the individual's death is deemed to be resident in Québec outside an eligible region at the end of 31 December of the year in which the individual died.

History: 2006, c. 36, s. 83; 2007, c. 12, s. 91.

Separate fiscal return.

776.15.0.19. If a separate fiscal return in respect of an individual is filed under any of sections 429, 681 and 1003 for a particular period and another fiscal return in respect of the same individual is filed under this Part for a period ending in the calendar year in which the particular period ends, for the purpose of computing the tax payable under this Part by the individual in such fiscal returns, the aggregate of all deductions claimed in those returns under section 776.1.5.0.17 or 776.1.5.0.18 must not exceed the deduction that could be claimed under that section for the year in respect of the individual if no separate fiscal returns were filed under sections 429, 681 and 1003.

History: 2006, c. 36, s. 83.

TITLE III.1

TAX CREDIT IN RESPECT OF A REGISTERED GAIN-SHARING PLAN THAT IS PART OF A QUALITY APPROACH

**CHAPTER I
INTERPRETATION**

Definitions:

776.1.5.1. In this Title,

“eligible beneficiary”;

“eligible beneficiary”, for a taxation year, under a registered gain-sharing plan that is part of a quality approach of a corporation means an individual who, as an employee of the corporation, is entitled to receive in the year an amount under the plan, who, in the performance of his duties as such within the corporation for the year in respect of which he is entitled to receive the amount, usually reports for work at an establishment of the corporation situated in Québec and who is not an excluded beneficiary described in section 776.1.5.2 in respect of the plan;

“qualified corporation”;

“qualified corporation” in respect of a registered gain-sharing plan that is part of a quality approach means a corporation whose assets or net shareholders' equity as shown in its financial statements submitted to the shareholders or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown if such financial statements had been prepared in accordance with generally accepted accounting principles, either for its taxation year preceding that which includes the date on which a registration number was assigned to the plan by the Minister in accordance with section 776.1.5.3 or, where that date is included in the first fiscal period of the corporation, at the beginning of that first fiscal period, were less than \$25,000,000 and equal to or less than \$10,000,000, respectively;

“registered gain-sharing plan that is part of a quality approach”;

“registered gain-sharing plan that is part of a quality approach” of a corporation means a gain-sharing plan that is part of a quality approach of the corporation that is registered by the Minister in accordance with the first paragraph of section 776.1.5.3;

“unused portion”.

“unused portion” of a deduction under section 776.1.5.4 in respect of a corporation for a taxation year means the amount by which an amount equal to 15% of the amount determined under the second paragraph of the said section for the year in respect of the corporation exceeds the amount of the tax payable by the corporation for the year under this Part, computed before any deduction under this Title, and sections 772.12, 1183 and 1184.

Special rules for qualified corporations.

For the purposes of the definition of “qualified corporation” set forth in the first paragraph, the following rules apply:

(a) the said definition, where the corporation referred to therein is a cooperative, shall read without reference to “net shareholders” and as if the reference therein to “submitted to the shareholders” were a reference to “submitted to the members”;

(b) sections 1029.8.27 to 1029.8.30, as they read before being repealed, apply for the purposes of the said definition, with the necessary modifications.

History: 1993, c. 19, s. 65; 1995, c. 63, s. 87; 1997, c. 3, s. 39; 2005, c. 23, s. 110.

Excluded beneficiary.

776.1.5.2. For the purposes of the definition of “eligible beneficiary” set forth in the first paragraph of section 776.1.5.1, an excluded beneficiary in respect of a registered gain-sharing plan that is part of a quality approach of a corporation means an individual who, on the date on which a registration number is assigned to the plan by the Minister in accordance with section 776.1.5.3, is

(a) a specified shareholder of the corporation or would be a specified shareholder of the corporation if, for the purposes of sections 21.17 and 21.18, the following rules applied:

i. the references in those sections to “not less than 10%” and to “to not less than 10%” were references to “more than 5%” and “to more than 5%”, respectively; and

ii. except for the purposes of paragraph *a* of section 21.18, an individual or a partnership is deemed to own such proportion of all the shares of the capital stock of the corporation that are owned on that date by a cooperative of which the individual or the partnership, as the case may be, is a member as the number of votes held on that date by the individual or the partnership, as the case may be, at a

meeting of the members of the cooperative is of the number of votes held on that date by all members of the cooperative at a meeting of the members of the cooperative; or

(b) where the corporation is a cooperative, a member having, directly or indirectly, more than 5% of the votes at a meeting of the members of the cooperative.

History: 1993, c. 19, s. 65; 1997, c. 3, s. 71.

CHAPTER II REGISTERED GAIN-SHARING PLAN THAT IS PART OF A QUALITY APPROACH

Registration.

776.1.5.3. The Minister shall, where a corporation applies therefor in prescribed form containing the prescribed information after 31 December 1992 and before 1 January 1996, register any gain-sharing plan that is part of a quality approach in respect of which the Minister of Industry and Trade has issued a certificate, by assigning, upon receipt of the prescribed form together with an amount of \$200, a copy of the document describing the plan and a copy of the certificate, a registration number to the plan.

Duty of the Minister.

The Minister shall notify the corporation having filed the prescribed form referred to in the first paragraph in respect of a registered gain-sharing plan that is part of a quality approach of the registration number he assigned to the plan and of the date on which the number was assigned.

History: 1993, c. 19, s. 65; 1994, c. 16, s. 51; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 1999, c. 8, s. 20.

CHAPTER III DEDUCTIONS

Maximum allowable deduction.

776.1.5.4. A corporation may deduct in computing its tax otherwise payable for a taxation year under this Part, an amount not exceeding 15% of the amount determined in respect of the corporation for the year under the second paragraph.

Interpretation.

The amount referred to in the first paragraph in respect of a corporation for a taxation year is the aggregate of all amounts each of which, on the one hand, is an amount relating to an amount paid in the year by the corporation to a particular eligible beneficiary for the year under a registered gain-sharing plan that is part of a quality approach, referred to in this paragraph as the “particular plan”, in respect of which the corporation is a qualified corporation and, on the other hand, is equal to the least of

(a) \$3,000,

(b) the aggregate of all amounts each of which is an amount paid in the year by the corporation to the particular eligible beneficiary under the particular plan, and

(c) the amount by which \$6,000 exceeds the aggregate of all amounts each of which is an amount determined under this paragraph in respect of an amount paid by the corporation in a preceding taxation year to the particular eligible beneficiary under the particular plan.

Amount paid under a registered gain-sharing plan.

For the purposes of the second paragraph, an amount paid by a corporation to an eligible beneficiary under a registered gain-sharing plan that is part of a quality approach of the corporation is deemed not to have been paid under the plan if it was paid to the eligible beneficiary after the earlier of

(a) the last day of the fifth taxation year of the corporation following that which includes the date on which a registration number was assigned to the plan by the Minister in accordance with section 776.1.5.3, and

(b) the earlier of the day on which the certificate issued by the Minister of Industry and Trade in respect of the plan is revoked and, where applicable, any earlier day on which such revocation is effective.

History: 1993, c. 19, s. 65; 1994, c. 16, s. 51; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 1999, c. 8, s. 20.

Other allowable deduction.

776.1.5.5. Subject to section 776.1.5.6, a corporation may also deduct from its tax otherwise payable for a taxation year under this Part any unused portion of a deduction under section 776.1.5.4 in respect of the corporation for the five preceding taxation years.

History: 1993, c. 19, s. 65; 1997, c. 3, s. 71.

Restrictions.

776.1.5.6. For the purposes of section 776.1.5.5, the following rules apply:

(a) no amount may be deducted by a corporation under the said section 776.1.5.5 in computing its tax payable for a particular taxation year under this Part in respect of the unused portion of a deduction under section 776.1.5.4 in respect of the corporation for a taxation year, before the unused portions of deductions under the said section 776.1.5.4 in respect of the corporation for the taxation years preceding the year that the corporation may deduct for the particular year are deducted;

(b) the unused portion of a deduction under section 776.1.5.4 in respect of a corporation for a taxation year may be deducted under the said section 776.1.5.5 in computing the tax payable under this Part by the corporation for a particular taxation year only to the extent that such

unused portion exceeds the aggregate of all amounts deducted, in respect of the unused portion of the deduction, in computing the tax payable under this Part by the corporation for the taxation years preceding the particular year;

(c) an amount may be deducted under the said section 776.1.5.5 by a corporation in computing its tax payable under this Part for a particular taxation year ending after the time that a person acquires control of the corporation, in respect of the unused portion of a deduction under section 776.1.5.4 in respect of the corporation for a taxation year ending before that time, only to the extent that the unused portion of the deduction may reasonably be considered to relate to a business of the corporation that was carried on by the corporation throughout the particular year for profit or with a reasonable expectation of profit.

History: 1993, c. 19, s. 65; 1997, c. 3, s. 71.

TITLE III.2 TAX CREDIT IN RESPECT OF ENVIRONMENTAL TRUSTS

Deduction.

776.1.6. There may be deducted from a taxpayer's tax otherwise payable under this Part for a taxation year such amount as the taxpayer claims not exceeding the taxpayer's Part III.12 tax credit, within the meaning assigned by section 1029.8.36.52, for the year.

History: 1996, c. 39, s. 210.

Corresponding Federal Provision: 127.41(2).

TITLE III.3 TAX CREDIT FOR THE HIRING OF FINANCIAL DERIVATIVES SPECIALISTS

Definitions:

776.1.7. In this Title,

“eligibility period”;

“eligibility period” applicable to an individual for a taxation year in relation to a corporation means the part of the taxation year within both the period for which the qualification certificate issued to the corporation in respect of the individual is valid and the period for which the annual qualification certificate referred to in the definition of “eligible specialist” was issued to the corporation in respect of the individual in relation to the taxation year;

“eligible specialist”;

“eligible specialist” of a corporation for a taxation year means an individual in respect of whom the Minister of Finance has, for the purposes of this Title, issued to the corporation a qualification certificate and an annual qualification certificate for all or part of the taxation year;

“excluded corporation”;

“excluded corporation” means

(a) a corporation that is exempt from tax under Book VIII; or

(b) a corporation that would be exempt from tax under section 985, but for section 192;

“government assistance”;

“government assistance” means assistance from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, tax deduction, investment allowance or as any other form of assistance, except a deduction under this Title in computing tax payable under this Part;

“non-government assistance”;

“non-government assistance” means an amount that would be included in computing a taxpayer’s income because of paragraph *w* of section 87, if that paragraph were read without reference to its subparagraphs ii and iii, except a deduction under this Title in computing tax payable under this Part;

“qualification certificate”;

“qualification certificate” in respect of an individual means a certificate that the Minister of Finance issues to a corporation after 23 March 2006 and before 1 January 2010, and that certifies that the individual qualifies as a financial derivatives specialist for the purposes of this Title;

“qualified corporation”;

“qualified corporation” means a corporation, other than an excluded corporation, that carries on a business in Québec and has an establishment in Québec;

“qualified wages”;

“qualified wages” paid by a corporation to an individual for a taxation year means the lesser of

(a) the amount obtained by multiplying \$75,000 by the proportion, not exceeding 1, that the number of weeks ending in the eligibility period applicable to the individual for the taxation year in relation to the corporation and for which the corporation paid the individual an amount as wages is of 52; and

(b) the amount by which the aggregate of all amounts each of which is an amount paid by the corporation to the individual as wages for a week ending in the eligibility period applicable to the individual for the taxation year in relation to the corporation, exceeds the aggregate of all amounts each of which is

i. the amount of any government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation’s filing-due date for that taxation year, or

ii. the amount of any benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the individual’s employment with the corporation as an eligible specialist, that a person or partnership has obtained, is entitled to obtain or may

reasonably expect to obtain, on or before the corporation’s filing-due date for that taxation year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property or in any other form or manner;

“unused portion of the tax credit”;

“unused portion of the tax credit” of a corporation for a taxation year means the amount by which the maximum amount that the corporation could deduct under section 776.1.8 for the taxation year if it had sufficient tax payable under this Part for that taxation year exceeds the tax payable by the corporation for the taxation year under this Part, determined before the application of that section and of the second paragraph of section 776.1.9;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

Qualified wages.

For the purposes of the definition of “qualified wages” in the first paragraph, a week ending in the eligibility period applicable to an individual for a taxation year in relation to a corporation is deemed not to be such a week if

(a) the corporation is not a qualified corporation at any time during that week;

(b) the individual is a specified shareholder of the corporation at any time during that week; or

(c) an amount paid by the corporation to the individual as wages for that week

i. represents all or part of an expenditure taken into account in computing the amount used as a basis for computing an amount that the corporation is deemed under Chapter III.1 of Title III of Book IX to have paid to the Minister for a taxation year, or deemed under section 34.1.9 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5) to have overpaid to the Minister, or

ii. is paid in circumstances such that

(1) it may reasonably be considered that all or a portion of a consideration paid or payable by a person or partnership under a particular contract relates to any given expenditure in respect of which the person or a member of the partnership may, for a taxation year, be deemed to have paid an amount to the Minister under Chapter III.1 of Title III of Book IX, and

(2) the amount paid as wages was incurred in the performance of the particular contract or of any contract derived from it and may reasonably be considered as relating to the given expenditure.

History: 2007, c. 12, s. 92; 2019, c. 14, s. 265.

Credit.

776.1.8. A corporation that, in a taxation year ending after 23 March 2006, employs an individual as an eligible specialist and that, on or before the day that is 12 months after the corporation's filing-due date for that taxation year, encloses the documents described in the second paragraph with the fiscal return it is required to file under section 1000 for that taxation year, may deduct from its tax payable under this Part for that taxation year, determined before the application of this section and of the second paragraph of section 776.1.9, an amount equal to 20% of the aggregate of all amounts each of which corresponds to the qualified wages paid by the corporation to such an individual for the taxation year.

Documents to be filed.

The documents to which the first paragraph refers are the following:

- (a) the prescribed form containing the prescribed information;
- (b) a copy of the qualification certificate issued to the corporation in respect of each individual referred to in the first paragraph; and
- (c) a copy of the annual qualification certificate issued for the purposes of this Title to the corporation by the Minister of Finance for all or part of the taxation year in respect of each individual referred to in the first paragraph.

History: 2007, c. 12, s. 92.

Unused portions of the tax credit.

776.1.9. A corporation may deduct from its tax payable under this Part for a taxation year, determined before the application of this Title, the unused portions of the tax credit of the corporation for the 10 taxation years that precede that taxation year.

Subsequent taxation years.

Similarly, a corporation may deduct from its tax payable under this Part for a taxation year, determined before the application of this paragraph, the unused portions of the tax credit of the corporation for the three taxation years that follow that taxation year.

History: 2007, c. 12, s. 92.

Deductibility.

776.1.10. No amount is deductible under section 776.1.9 in respect of an unused portion of the tax credit for a taxation year until the unused portions of the tax credit for the preceding taxation years that are deductible have been deducted.

Condition.

In addition, an unused portion of the tax credit may be deducted for a taxation year under section 776.1.9 only to the extent that it exceeds the aggregate of the amounts deducted in its respect for the preceding taxation years under that section.

History: 2007, c. 12, s. 92.

Certificates replaced or revoked.

776.1.11. Subject to sections 1010 to 1011 and for the purposes of this Title, when the Minister of Finance replaces or revokes a qualification certificate or an annual qualification certificate issued by the Minister of Finance to a corporation in respect of an individual for the purposes of this Title, the following rules apply:

- (a) a qualification certificate or annual qualification certificate that is replaced is null from the time it was issued and the new qualification certificate or annual qualification certificate is deemed to have been issued at that time; and
- (b) a qualification certificate or annual qualification certificate that is revoked is null from the time the revocation becomes effective.

Presumption.

The qualification certificate or annual qualification certificate so revoked is deemed not to have been issued as of the effective date specified in the notice of revocation.

History: 2007, c. 12, s. 92.

Acquisition of control.

776.1.12. If, at any time, control of a corporation is acquired by a person or group of persons, no amount may be deducted by the corporation under section 776.1.9 for a taxation year ending after that time in respect of the unused portion of the tax credit of the corporation for a taxation year ending before that time.

Deduction permitted.

However, the corporation may deduct an amount under section 776.1.9 for a particular taxation year ending after the time referred to in the first paragraph, in respect of the portion that may reasonably be considered to be attributable to the carrying on of a business, of the unused portion of the tax credit of the corporation for a taxation year ending before that time, if the corporation carried on the business throughout the particular taxation year for profit or with a reasonable expectation of profit.

Deductible amount.

The amount that the corporation may deduct under section 776.1.9 for the particular taxation year in respect of the portion described in the second paragraph is to be

determined as if the reference in the first paragraph of that section to the tax payable under this Part for a taxation year, determined before the application of this Title, were a reference to the portion of the tax payable under this Part by the corporation for the particular taxation year, determined before the application of this Title, that may reasonably be attributed to the carrying on of the business referred to in the second paragraph and, if the corporation sold, leased, rented or developed properties or rendered services in the course of carrying on that business before the time referred to in the first paragraph, of any other business substantially all the income of which is derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 2007, c. 12, s. 92.

Acquisition of control.

776.113. If, at any time, control of a corporation is acquired by a person or group of persons, no amount may be deducted by the corporation under section 776.1.9 for a taxation year ending before that time in respect of the unused portion of the tax credit of the corporation for a taxation year ending after that time.

Deduction permitted.

However, the corporation may deduct an amount under section 776.1.9 for a particular taxation year ending before the time referred to in the first paragraph, in respect of the portion that may reasonably be considered to be attributable to the carrying on of a business, of the unused portion of the tax credit of the corporation for a taxation year ending after that time, if the corporation carried on the business throughout that taxation year and in the particular taxation year for profit or with a reasonable expectation of profit.

Deductible amount.

The amount that the corporation may deduct under section 776.1.9 for the particular taxation year in respect of the portion described in the second paragraph is to be determined as if the reference in the second paragraph of that section to the tax payable under this Part for a taxation year, determined before the application of the second paragraph of that section, were a reference to the portion of the tax payable under this Part by the corporation for the particular taxation year, determined before the application of the second paragraph of that section, that may reasonably be attributed to the carrying on of the business referred to in the second paragraph and, if the corporation sold, leased, rented or developed properties or rendered services in the course of carrying on that business before the time referred to in the first paragraph, of any other business substantially all the income of which is derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 2007, c. 12, s. 92.

Reduction of the unused portion of the tax credit.

776.114. For the purpose of computing the amount that a corporation may deduct under section 776.1.9 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, that unused portion of the tax credit of the corporation, otherwise determined, is to be reduced by the amount determined under the second paragraph if, in the particular taxation year or a preceding taxation year, an amount relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year, other than an amount described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 776.1.7, is

(a) directly or indirectly refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; or

(b) obtained by a person or partnership.

Amount.

The amount to which the first paragraph refers is the amount by which the maximum amount that the corporation could have deducted under section 776.1.8 for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year exceeds the aggregate of

(a) the maximum amount that the corporation could have deducted under that section for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year and if, for the purposes of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 776.1.7,

i. any amount referred to in the first paragraph in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is received or obtained at or before the end of the particular taxation year, had been received or obtained in the particular preceding taxation year, and

ii. any amount referred to in the first paragraph of section 776.1.15 in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is paid or deemed to be paid under section 776.1.16 at or before the end of the particular taxation year, had been paid or deemed to be paid in the particular preceding taxation year; and

(b) any portion that may reasonably be considered as relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year, of the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.27.16 for the particular taxation year or a preceding taxation year.

Unused portions of the tax credit.

For the purpose of computing the amount that the corporation may deduct under section 776.1.9 for the particular taxation year in respect of the unused portion of the tax credit of the corporation for a taxation year other than the particular preceding taxation year, the corporation is deemed to have deducted under that section for the taxation years preceding the particular taxation year in respect of the unused portions of the tax credit of the corporation for the taxation years other than the particular preceding taxation year that are deductible for the particular taxation year, in addition to any other amount deducted or deemed to be deducted, an amount equal to the amount by which the amount determined under the second paragraph exceeds the amount by which the unused portion of the tax credit of the corporation for the particular preceding taxation year, determined before the application of this section and of section 776.1.15, exceeds the aggregate of the amounts deducted by the corporation under section 776.1.9 for the taxation years preceding the particular taxation year in respect of that unused portion of the tax credit of the corporation.

History: 2007, c. 12, s. 92.

Increase of the unused portion of the tax credit.

776.1.15. For the purpose of computing the amount that a corporation may deduct under section 776.1.9 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, that unused portion of the tax credit of the corporation, otherwise determined, is to be increased by the amount determined under the second paragraph if, in the particular taxation year or a preceding taxation year, an amount relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year, described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 776.1.7 or in subparagraph *a* or *b* of the first paragraph of section 776.1.14, is, pursuant to a legal obligation,

(a) paid by the corporation, and may reasonably be considered as the repayment of an amount attributable to the qualified wages that is referred to in that subparagraph i or that subparagraph *a*; or

(b) paid by a person or partnership, and may reasonably be considered as the repayment of an amount attributable to the qualified wages that is referred to in that subparagraph ii or subparagraph *b* of the first paragraph of section 776.1.14.

Amount.

The amount to which the first paragraph refers is the amount by which the maximum amount that the corporation could have deducted under section 776.1.8 for the particular preceding taxation year if it had had sufficient tax payable

under this Part for that taxation year is exceeded by the aggregate of

(a) the maximum amount that the corporation could have deducted under that section for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year and if, for the purposes of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 776.1.7,

i. any amount referred to in the first paragraph in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is paid at or before the end of the particular taxation year had been paid in the particular preceding taxation year, and

ii. any amount referred to in the first paragraph of section 776.1.14 in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is received or obtained at or before the end of the particular taxation year, had been received or obtained in the particular preceding taxation year; and

(b) any portion that may reasonably be considered as relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year, of the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.27.16 for a taxation year preceding the particular taxation year.

Unused portion of the tax credit.

For the purpose of computing the amount that the corporation may deduct under section 776.1.9 for the particular taxation year in respect of the unused portion of the tax credit of the corporation for a taxation year other than the particular preceding taxation year, the corporation shall also take into account the amount by which the unused portion of the tax credit of the corporation for the particular preceding taxation year is to be increased under the first paragraph.

History: 2007, c. 12, s. 92.

Deemed repayment.

776.1.16. For the purposes of section 776.1.15, an amount attributable to qualified wages paid by a corporation to an individual for a preceding taxation year, described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 776.1.7, is deemed to be repaid by a corporation, person or partnership, as the case may be, in a particular taxation year, pursuant to a legal obligation, if that amount

(a) is described in that subparagraph i or ii in relation to those qualified wages;

(b) in the case of an amount described in that subparagraph i, was not received by the corporation;

(c) in the case of an amount described in that subparagraph ii, was not obtained by the person or partnership; and

(d) ceased, in the particular taxation year, to be an amount that the corporation, person or partnership may reasonably expect to receive or obtain.

History: 2007, c. 12, s. 92.

Taxation year in which amount is received.

776.117. For the purposes of this Part, an amount deducted by a corporation under this Title in computing its tax payable under this Part for a preceding taxation year in respect of an expenditure made in a taxation year preceding a particular taxation year is to be considered as received by the corporation in the particular taxation year, to the extent that the amount is not considered, under this section, as received by the corporation in a taxation year preceding the particular taxation year.

History: 2007, c. 12, s. 92.

Provisions applicable.

776.118. Sections 1029.6.0.1.7 and 1029.6.0.1.8 apply to this Title, with the necessary modifications.

History: 2007, c. 12, s. 92.

TITLE III.4 TAX CREDIT FOR THE DEVELOPMENT OF E-BUSINESS

Meaning of “unused portion of the tax credit”.

776.119. In this Title, “unused portion of the tax credit” of a corporation for a taxation year means the amount by which the maximum amount that the corporation could deduct under section 776.1.20 for the taxation year if it had sufficient tax payable under this Part for the taxation year exceeds the tax payable by the corporation for the taxation year under this Part, determined before the application of that section and the second paragraph of section 776.1.21.

History: 2015, c. 36, s. 53.

Credit.

776.120. A corporation that is a qualified corporation for the purposes of Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX, for a taxation year, may deduct from its tax payable under this Part for the taxation year, determined before the application of this section and the second paragraph of section 776.1.21, an amount equal to 6% of the aggregate of all amounts each of which is wages, for the purposes of that Division II.6.0.1.9, that it incurred in the year and after 26 March 2015, and in respect of which the

corporation is deemed to have paid an amount to the Minister for the year under that Division II.6.0.1.9.

History: 2015, c. 36, s. 53.

Unused portions of the tax credit for the preceding taxation years.

776.121. A corporation may deduct, for a taxation year in respect of which the corporation is deemed to have paid an amount to the Minister under Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX, from its tax payable under this Part, determined before the application of this Title, the unused portions of the tax credit of the corporation for the 20 taxation years that precede that taxation year.

Unused portions of the tax credit for the following taxation years.

Similarly, a corporation may deduct, for a taxation year that ended after 26 March 2015 and in respect of which the corporation is deemed to have paid an amount to the Minister under Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX, from its tax payable under this Part, determined before the application of this paragraph, the unused portions of the tax credit of the corporation for the three taxation years that follow that taxation year.

History: 2015, c. 36, s. 53.

Order of deduction of unused portions.

776.122. No amount is deductible under section 776.1.21 in respect of an unused portion of the tax credit for a taxation year until the unused portions of the tax credit for the preceding taxation years that are deductible have been deducted.

Amounts deducted in previous years.

In addition, an unused portion of the tax credit may be deducted for a taxation year under section 776.1.21 only to the extent that it exceeds the aggregate of the amounts deducted in its respect for the preceding taxation years under that section.

History: 2015, c. 36, s. 53.

Reduction of the unused portion of the tax credit.

776.123. For the purpose of computing the amount that a corporation may deduct under section 776.1.21 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, that unused portion of the tax credit of the corporation, otherwise determined, is to be reduced by the amount determined under the second paragraph if, in the particular taxation year or a preceding taxation year, an amount relating to wages included in computing the qualified wages, for the purposes of Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX, paid by the corporation to an individual for the particular preceding taxation year, other

than an amount described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.79, is

- (a) directly or indirectly refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; or
- (b) obtained by a person or a partnership.

Amount of the reduction.

The amount to which the first paragraph refers is the amount by which the maximum amount that the corporation could have deducted under section 776.1.20 for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year exceeds the aggregate of

(a) the maximum amount that the corporation could have deducted under that section for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year and if, for the purposes of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.79,

i. any amount referred to in the first paragraph in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is received or obtained at or before the end of the particular taxation year, had been received or obtained in the particular preceding taxation year, and

ii. any amount referred to in the first paragraph of section 776.1.24 in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is paid or deemed to be paid under section 776.1.25 at or before the end of the particular taxation year, had been paid or deemed to be paid in the particular preceding taxation year; and

(b) any portion—that may reasonably be considered as relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year—of the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.27.20 for the particular taxation year or a preceding taxation year.

Unused portion of the tax credit for another taxation year.

For the purpose of computing the amount that the corporation may deduct under section 776.1.21 for the particular taxation year in respect of the unused portion of the tax credit of the corporation for a taxation year other than the particular preceding taxation year, the corporation is deemed to have deducted under that section for the taxation years preceding the particular taxation year in respect of the unused portions of the tax credit of the corporation for the taxation years other than the particular preceding taxation year that are deductible for the particular taxation year, in

addition to any other amount deducted or deemed to be deducted, an amount equal to the amount by which the amount determined under the second paragraph exceeds the amount by which the unused portion of the tax credit of the corporation for the particular preceding taxation year, determined before the application of this section and section 776.1.24, exceeds the aggregate of the amounts deducted by the corporation under section 776.1.21 for the taxation years preceding the particular taxation year in respect of that unused portion of the tax credit of the corporation.

History: 2015, c. 36, s. 53.

Unused portion of the tax credit to be increased.

776.1.24. For the purpose of computing the amount that a corporation may deduct under section 776.1.21 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, that unused portion of the tax credit of the corporation, otherwise determined, is to be increased by the amount determined under the second paragraph if, in the particular taxation year or a preceding taxation year, an amount relating to wages included in computing the qualified wages, for the purposes of Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX, paid by the corporation to an individual for the particular preceding taxation year, described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.79 or in subparagraph *a* or *b* of the first paragraph of section 776.1.23, is, pursuant to a legal obligation,

(a) paid by the corporation, and may reasonably be considered as the repayment of an amount attributable to the qualified wages that is referred to in that subparagraph i or that subparagraph *a*; or

(b) paid by a person or a partnership, and may reasonably be considered as the repayment of an amount attributable to the qualified wages that is referred to in that subparagraph ii or subparagraph *b* of the first paragraph of section 776.1.23.

Amount of the increase.

The amount to which the first paragraph refers is the amount by which the maximum amount that the corporation could have deducted under section 776.1.20 for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year is exceeded by the aggregate of

(a) the maximum amount that the corporation could have deducted under that section for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year and if, for the purposes of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.79,

i. any amount referred to in the first paragraph in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is paid at or before the end of the particular taxation year had been paid in the particular preceding taxation year, and

ii. any amount referred to in the first paragraph of section 776.1.23 in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is received or obtained at or before the end of the particular taxation year, had been received or obtained in the particular preceding taxation year; and

(b) any portion—that may reasonably be considered as relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year—of the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.27.20 for a taxation year preceding the particular taxation year.

Unused portion of the tax credit for another taxation year.

For the purpose of computing the amount that the corporation may deduct under section 776.1.21 for the particular taxation year in respect of the unused portion of the tax credit of the corporation for a taxation year other than the particular preceding taxation year, the corporation shall also take into account the amount by which the unused portion of the tax credit of the corporation for the particular preceding taxation year is to be increased under the first paragraph.

History: 2015, c. 36, s. 53.

Deemed repayment of assistance, benefit or advantage.

776.1.25. For the purposes of section 776.1.24, an amount attributable to qualified wages, for the purposes of Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX, paid by a corporation to an individual for a preceding taxation year, described in subparagraph i or ii of paragraph b of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.79, is deemed to be repaid by a corporation, person or partnership, as the case may be, in a particular taxation year, pursuant to a legal obligation, if that amount

(a) is described in that subparagraph i or ii in relation to those qualified wages;

(b) in the case of an amount described in that subparagraph i, was not received by the corporation;

(c) in the case of an amount described in that subparagraph ii, was not obtained by the person or partnership; and

(d) ceased, in the particular taxation year, to be an amount that the corporation, person or partnership may reasonably expect to receive or obtain.

History: 2015, c. 36, s. 53.

Year of receipt of the tax credit.

776.1.26. For the purposes of this Part, an amount deducted by a corporation under this Title in computing its tax payable under this Part for a preceding taxation year in respect of an expenditure made in a taxation year preceding a particular taxation year is to be considered as received by the corporation in the particular taxation year, to the extent that the amount is not considered, under this section, as received by the corporation in a taxation year preceding the particular taxation year.

History: 2015, c. 36, s. 53.

TITLE III.5

TAX CREDIT FOR INTERNATIONAL FINANCIAL CENTRES

Definitions:

776.1.27. In this Title,

“*eligible employee*”;

“eligible employee” of a corporation for all or part of a taxation year means an employee of the corporation in respect of whom a certificate to the effect that the employee is an eligible employee for all or part of the year is issued to the corporation for the year for the purposes of this Title;

“*government assistance*”;

“government assistance” means assistance from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, tax deduction, investment allowance or as any other form of assistance, except a deduction under this Title in computing tax payable under this Part;

“*non-government assistance*”;

“non-government assistance” means an amount that would be included in computing a taxpayer’s income because of paragraph w of section 87, if that paragraph were read without reference to its subparagraphs ii and iii, except a deduction under this Title in computing tax payable under this Part;

“*qualified wages*”;

“qualified wages” incurred by a corporation in a taxation year in respect of an eligible employee for all or part of the taxation year means the lesser of

(a) the amount obtained by multiplying \$75,000 by the proportion that the number of days in the taxation year during which the employee qualifies as an eligible employee of the corporation is of 365; and

(b) the amount by which the amount of the wages incurred in the year by the corporation in respect of the employee,

while the employee qualifies as an eligible employee of the corporation, to the extent that that amount is paid, exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount of government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation's filing-due date for the taxation year, and

ii. the aggregate of all amounts each of which is the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the duties performed by the employee in the course of the operations of the business carried on by the corporation in the taxation year that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the corporation's filing-due date for that taxation year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner;

“unused portion of the tax credit”;

“unused portion of the tax credit” of a corporation for a taxation year means the amount by which the maximum amount that the corporation could deduct under section 776.1.28 for the taxation year if it had sufficient tax payable under this Part for that taxation year exceeds the tax payable by the corporation for the taxation year under this Part, determined before the application of that section and of the second paragraph of section 776.1.29;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III, but includes benefits referred to in that Chapter II only if they were paid in currency.

History: 2017, c. 1, s. 234; 2019, c. 14, s. 266.

Tax credit.

776.1.28. A corporation operating an international financial centre in a taxation year that holds for that year a valid certificate issued for the purposes of this Title and that encloses with the fiscal return it is required to file for the year under section 1000 the documents described in the second paragraph may deduct from its tax payable under this Part for that year, determined before the application of this section and of the second paragraph of section 776.1.29, an amount equal to 24% of the aggregate of all amounts each of which is the qualified wages incurred by the corporation in the year in respect of an eligible employee for all or part of that year.

Documents required.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of any certificate that has been issued to the corporation for the taxation year for the purposes of this Title.

History: 2017, c. 1, s. 234.

Unused portion of the tax credit for the preceding taxation year.

776.1.29. A corporation may deduct, for a taxation year in respect of which the corporation holds a valid qualification certificate issued for the purposes of this Title, from its tax payable under this Part, determined before the application of this Title, the unused portions of the tax credit of the corporation for the 20 taxation years that precede that taxation year.

Unused portion of the tax credit for the following taxation year.

Similarly, a corporation may deduct, for a taxation year that ended after 26 March 2015 and for which the corporation holds a valid qualification certificate issued for the purposes of this Title, from its tax payable under this Part, determined before the application of this paragraph, the unused portions of the tax credit of the corporation for the three taxation years that follow that taxation year.

History: 2017, c. 1, s. 234.

Order of deduction of unused portions.

776.1.30. No amount is deductible under section 776.1.29 in respect of an unused portion of the tax credit for a taxation year until the unused portions of the tax credit for the preceding taxation years that are deductible have been deducted.

Amounts deducted in previous years.

In addition, an unused portion of the tax credit may be deducted for a taxation year under section 776.1.29 only to the extent that it exceeds the aggregate of the amounts deducted in its respect for the preceding taxation years under that section.

History: 2017, c. 1, s. 234.

Reduction of the unused portion of the tax credit.

776.1.31. For the purpose of computing the amount that a corporation may deduct under section 776.1.29 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, that unused portion of the tax credit of the corporation, otherwise determined, is to be reduced by the amount determined under the second paragraph if, in the particular taxation year or a preceding taxation year, an amount relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year, other than an amount

described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in section 776.1.27, is

(a) directly or indirectly refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; or

(b) obtained by a person or a partnership.

Amount of the reduction.

The amount to which the first paragraph refers is the amount by which the maximum amount that the corporation could have deducted under section 776.1.28 for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year exceeds the aggregate of

(a) the maximum amount that the corporation could have deducted under that section for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year and if, for the purposes of paragraph *b* of the definition of “qualified wages” in section 776.1.27,

i. any amount referred to in the first paragraph in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is received or obtained at or before the end of the particular taxation year, had been received or obtained in the particular preceding taxation year, and

ii. any amount referred to in the first paragraph of section 776.1.32 in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is paid or deemed to be paid under section 776.1.33 at or before the end of the particular taxation year, had been paid or deemed to be paid in the particular preceding taxation year; and

(b) any portion—that may reasonably be considered as relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year—of the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.27.24 for the particular taxation year or a preceding taxation year.

Unused portion of the tax credit for another taxation year.

For the purpose of computing the amount that the corporation may deduct under section 776.1.29 for the particular taxation year in respect of the unused portion of the tax credit of the corporation for a taxation year other than the particular preceding taxation year, the corporation is deemed to have deducted under that section for the taxation years preceding the particular taxation year in respect of the unused portions of the tax credit of the corporation for the taxation years other than the particular preceding taxation year that are deductible for the particular taxation year, in addition to any other amount deducted or deemed to be

deducted, an amount equal to the amount by which the amount determined under the second paragraph exceeds the amount by which the unused portion of the tax credit of the corporation for the particular preceding taxation year, determined before the application of this section and section 776.1.32, exceeds the aggregate of the amounts deducted by the corporation under section 776.1.29 for the taxation years preceding the particular taxation year in respect of that unused portion of the tax credit of the corporation.

History: 2017, c. 1, s. 234.

Unused portion of the tax credit to be increased.

776.1.32. For the purpose of computing the amount that a corporation may deduct under section 776.1.29 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, that unused portion of the tax credit of the corporation, otherwise determined, is to be increased by the amount determined under the second paragraph if, in the particular taxation year or a preceding taxation year, an amount relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year, described in subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in section 776.1.27 or in subparagraph *a* or *b* of the first paragraph of section 776.1.31, is, pursuant to a legal obligation,

(a) paid by the corporation, and may reasonably be considered as the repayment of an amount attributable to the qualified wages that is referred to in that subparagraph i or that subparagraph *a*; or

(b) paid by a person or a partnership, and may reasonably be considered as the repayment of an amount attributable to the qualified wages that is referred to in that subparagraph ii or in subparagraph *b* of the first paragraph of section 776.1.31.

Amount of the increase.

The amount to which the first paragraph refers is the amount by which the maximum amount that the corporation could have deducted under section 776.1.28 for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year is exceeded by the aggregate of

(a) the maximum amount that the corporation could have deducted under that section for the particular preceding taxation year if it had had sufficient tax payable under this Part for that taxation year and if, for the purposes of paragraph *b* of the definition of “qualified wages” in section 776.1.27,

i. any amount referred to in the first paragraph in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is paid at or before the end of the particular

taxation year had been paid in the particular preceding taxation year, and

ii. any amount referred to in the first paragraph of section 776.1.31 in relation to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year that is received or obtained at or before the end of the particular taxation year, had been received or obtained in the particular preceding taxation year; and

(b) any portion—that may reasonably be considered as relating to wages included in computing the qualified wages paid by the corporation to an individual for the particular preceding taxation year—of the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.27.24 for a taxation year preceding the particular taxation year.

Unused portion of the tax credit for another taxation year.

For the purpose of computing the amount that the corporation may deduct under section 776.1.29 for the particular taxation year in respect of the unused portion of the tax credit of the corporation for a taxation year other than the particular preceding taxation year, the corporation shall also take into account the amount by which the unused portion of the tax credit of the corporation for the particular preceding taxation year is to be increased under the first paragraph.

History: 2017, c. 1, s. 234.

Deemed repayment of assistance, benefit or advantage.

776.1.33. For the purposes of section 776.1.32, an amount attributable to qualified wages paid by a corporation to an individual for a preceding taxation year, described in subparagraph i or ii of paragraph b of the definition of “qualified wages” in section 776.1.27, is deemed to be repaid by a corporation, person or partnership, as the case may be, in a particular taxation year, pursuant to a legal obligation, if that amount

(a) is described in that subparagraph i or ii in relation to those qualified wages;

(b) in the case of an amount described in that subparagraph i, was not received by the corporation;

(c) in the case of an amount described in that subparagraph ii, was not obtained by the person or partnership; and

(d) ceased, in the particular taxation year, to be an amount that the corporation, person or partnership may reasonably expect to receive or obtain.

History: 2017, c. 1, s. 234.

Year of receipt of the tax credit.

776.1.34. For the purposes of this Part, an amount deducted by a corporation under this Title in computing its tax payable under this Part for a preceding taxation year in respect of an expenditure made in a taxation year preceding a particular taxation year is to be considered as received by the corporation in the particular taxation year, to the extent that the amount is not considered, under this section, as received by the corporation in a taxation year preceding the particular taxation year.

History: 2017, c. 1, s. 234.

Tax credit on production of documents.

776.1.35. A corporation may deduct an amount under section 776.1.28 in computing its tax payable for a taxation year only if it files with the Minister the prescribed form containing prescribed information and a copy of each certificate it is required to file for the year in accordance with that section, on or before the day that is 12 months after the corporation’s filing-due date for the year or, if it is later, the day that is three months after the date of issue of the certificate relating to the year.

Reassessments.

Despite sections 1010 to 1011, the Minister shall redetermine the tax, interest and penalties payable by a corporation under this Part for a taxation year and make a reassessment for the year to give effect to the first paragraph to the extent that the reassessment may reasonably be considered to relate to an amount that is claimed as a deduction under section 776.1.28 for the year and in respect of which a certificate, referred to in the first paragraph and relating to the year, has been filed with the Minister after the day that is 12 months after the corporation’s filing-due date for the year and on or before the day that is three months after the date of its issue.

History: 2017, c. 1, s. 234.

TITLE IV

(Repealed).

776.2. *(Repealed).*

History: 1981, c. 24, s. 15; 1982, c. 5, s. 145; 1983, c. 20, s. 4; 1987, c. 67, s. 155; 1989, c. 5, s. 129.

776.3. *(Repealed).*

History: 1981, c. 24, s. 15; 1989, c. 5, s. 129.

776.4. *(Repealed).*

History: 1981, c. 24, s. 15; 1989, c. 5, s. 129.

776.5. *(Repealed).*

History: 1981, c. 24, s. 15; 1985, c. 25, s. 133; 1989, c. 5, s. 129.

TITLE IV.1*(Repealed).***776.5.1.** *(Repealed).*

History: 1986, c. 103, s. 11; 1989, c. 5, s. 130; 1997, c. 85, s. 172.

TITLE V**SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT TAX CREDIT****CHAPTER I****INTERPRETATION****Definitions:****776.6.** For the purposes of this Part,**"scientific research and experimental development tax credit";**

(a) "scientific research and experimental development tax credit" of an individual other than a trust for a taxation year means the aggregate of the amounts each of which is equal to 25% of the amount designated by a corporation under section 776.10 in respect of a qualifying security acquired in the year by the individual where the individual is the first holder thereof; however, in the case of an individual contemplated in the second paragraph of section 22, 25 or 26, that aggregate shall be multiplied by the proportion contemplated in the second paragraph of those sections;

"unused scientific research and experimental development tax credit".

(b) "unused scientific research and experimental development tax credit" of an individual other than a trust for a taxation year means an amount equal to the amount by which his scientific research and experimental development tax credit for the year exceeds his tax otherwise payable for the year under this Part or, where Book V.1 of this Part applies to the individual for the year, the amount by which his tax otherwise payable for the year under this Part exceeds the amount of his minimum tax determined for the year under section 776.46, as the case may be.

History: 1985, c. 25, s. 134; 1987, c. 67, s. 157; 1990, c. 59, s. 297; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.3(2).**Definitions:****776.7.** In this Title and Title V.1,**"qualifying security";**

(a) "qualifying security" means

- i. a share;
- ii. a bond, debenture, bill, hypothecary claim, mortgage or similar obligation; or

- iii. a right under a scientific research and experimental development financing contract, issued or granted after 30 September 1983, other than a prescribed security;

"holder";

(b) "holder" of a qualifying security means

- i. in the case of a security described in subparagraph i or ii of paragraph *a*, a registered holder other than a broker or dealer in securities acting as an intermediary;

- ii. in the case of a security described in subparagraph iii of paragraph *a*, a holder other than a broker or dealer in securities acting as an intermediary;

"tax otherwise payable".

(c) "tax otherwise payable" by an individual under this Part for a taxation year means the tax payable by him for the year under this Part, computed without reference to section 776.17.

History: 1985, c. 25, s. 134; 1986, c. 15, s. 124; 1987, c. 67, s. 158; 1988, c. 18, s. 68; 1989, c. 5, s. 131; 1996, c. 39, s. 211; 2001, c. 53, s. 145; 2005, c. 1, s. 185.

Corresponding Federal Provision: 127.3(2) and (8).**Partnership.****776.8.** For the purposes of this Title and Title V.1, a partnership is deemed to be a person and its taxation year is deemed to correspond to its fiscal period.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.3(7).**"scientific research and experimental development financing contract".****776.9.** For the purposes of this Title, "scientific research and experimental development financing contract" means a contract in writing pursuant to which an amount is paid by a person to a corporation as consideration for the granting by the corporation to that person of an absolute or contingent right to receive income, other than interest or dividends.

History: 1985, c. 25, s. 134; 1987, c. 67, s. 159; 1997, c. 3, s. 71.

Corresponding Federal Provision: 194(6).**Election concerning first acquirer of qualifying security.****776.9.1.** For the purposes of this Title and of Title V.1, where a qualifying security described in subparagraph i or ii of paragraph *a* of section 776.7 of a public corporation is lawfully distributed to the public in accordance with a prospectus, registration statement or similar document filed with a public body in Canada pursuant to and in accordance with the law of Canada or of any province, and, where required by law, accepted for filing by such public body and where the corporation if it has designated an amount under section 776.10 in respect of the qualifying security, the corporation may, in the return prescribed for the purposes of that section 776.10, elect that the first person, other than a broker or dealer in securities acting as an intermediary, to

have acquired the qualifying security shall be considered to be the first holder of a qualifying security and, in such a case, no other person may then be considered the first holder thereof.

History: 1986, c. 15, s. 125; 1997, c. 3, s. 71; 2001, c. 53, s. 146.

Corresponding Federal Provision: 127.3(9).

Calculation of consideration.

776.9.2. For the purposes of this Title and of Title V.1, the amount of consideration for which a qualifying security is issued or granted includes the amount of consideration for the designation made under section 776.10 in respect of the qualifying security or for the designation mentioned in section 776.18 in respect of the qualifying security.

Consideration not included.

In addition, the amount of consideration received by a corporation for the designations mentioned in sections 776.10, 776.18 and 776.19 in respect of a qualifying security shall not be included in computing the income of the corporation.

History: 1986, c. 15, s. 125; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.3(10).

CHAPTER II DESIGNATION BY A CORPORATION

Designation.

776.10. For the purposes of this Part, a taxable Canadian corporation may designate, in respect of a qualifying security issued by it, an amount equal to the prescribed amount.

Designation.

No designation referred to in the first paragraph is valid unless it is made in the prescribed return and the prescribed manner.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71; 2001, c. 53, s. 147.

Corresponding Federal Provision: 194(4).

Restriction.

776.11. Where a corporation has designated an amount under section 776.10 in respect of a qualifying security, no amount may be designated at any subsequent time in respect of that qualifying security.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71.

Corresponding Federal Provision: 194(9).

CHAPTER III BENEFICIARY UNDER TRUST

Beneficiary under trust.

776.12. For the purposes of this Title and sections 255 to 258, where an individual, other than a broker or dealer in

securities, is a beneficiary under a trust and an amount is designated by a corporation under section 776.10 in respect of a qualifying security acquired by the trust, in a taxation year of the trust, where the trust is the first holder thereof, the following rules apply:

(a) the trust may, having regard to all the circumstances including the terms and conditions of the trust arrangement, in its fiscal return for that year, attribute to the individual the prescribed portion of that amount, to the extent that that portion was not attributed by the trust to any other beneficiary under the trust; and

(b) the prescribed portion contemplated in paragraph a that is attributed to the individual is deemed to be an amount designated by the corporation, under section 776.10, on the last day of that year, in respect of a qualifying security acquired by the individual on that day where the individual is the first holder thereof.

Restriction.

For the purposes of the first paragraph, a trust does not include a trust exempt from tax under sections 980 to 999.1 or governed by an employee benefit plan or by a plan the registration of which is revoked under subsection 14 or 14.1 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1985, c. 25, s. 134; 1986, c. 15, s. 126; 1991, c. 25, s. 92; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.3(3) and (3.1).

CHAPTER IV MEMBER OF PARTNERSHIP

Member of partnership.

776.13. For the purposes of this Title and sections 255 to 258, where an individual other than a broker or dealer in securities is a member of a partnership and an amount is designated by a corporation under section 776.10 in respect of a qualifying security acquired by the partnership, in a taxation year of the partnership, where the partnership is the first holder thereof, such portion of that amount as may reasonably be considered to be the individual's share thereof is deemed to be an amount designated by the corporation, under section 776.10, on the last day of that year, in respect of a qualifying security acquired by the individual on that day where the individual is the first holder thereof.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.3(4).

CHAPTER V COST OF QUALIFYING SECURITY

Cost to first holder.

776.14. For the purposes of this Part, where in a taxation year a person has acquired and is the first holder of a qualifying security in respect of which an amount was

designated by a corporation under section 776.10, the cost to him of the security is deemed to be that provided for in section 776.15.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.3(6) before (a).

Computation of cost.

776.15. The cost to a person of a qualifying security contemplated in section 776.14 is equal to the amount by which

(a) its cost as otherwise determined to the person contemplated therein exceeds

(b) 50% of the designated amount contemplated therein in respect of the security.

History: 1985, c. 25, s. 134.

Corresponding Federal Provision: 127.3(6)(a).

Computation of excess.

776.16. Where the amount determined under paragraph *b* of section 776.15 exceeds the amount determined under paragraph *a* of the said section 776.15, the excess,

(a) where the qualifying security contemplated in section 776.14 is a capital property to the person contemplated in the said section 776.14, is deemed to be a capital gain of the person for the year in which the security is acquired, from the disposition of that property, and

(b) in any other case, shall be included in computing the income of the person for that year.

Cost deemed nil.

The cost to that person of the qualifying security is in that case deemed to be nil.

History: 1985, c. 25, s. 134.

Corresponding Federal Provision: 127.3(6)(b) and after (b).

CHAPTER VI DEDUCTION

Scientific research and experimental development.

776.17. An individual other than a trust may deduct from his tax otherwise payable for a taxation year under this Part an amount not greater than the aggregate of his scientific research and experimental development tax credit for the year and his unused scientific research and experimental development tax credit for the following taxation year.

History: 1985, c. 25, s. 134; 1987, c. 67, s. 160; 1988, c. 4, s. 71; 1988, c. 18, s. 69.

Corresponding Federal Provision: 127.3(1).

TITLE V.1

COST OF CERTAIN SECURITIES GIVING RIGHT TO TAX CREDIT

Deemed cost of acquisition.

776.18. For the purposes of this Part, where in a taxation year a corporation has acquired and is the first holder of a qualifying security in respect of which an amount was designated by another corporation under subsection 4 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the cost to the corporation of the security is deemed to be that provided for in the second paragraph.

Computation of cost.

The cost to a corporation of a qualifying security contemplated in the first paragraph is equal to the amount by which

(a) its costs as otherwise determined to the corporation contemplated therein exceeds

(b) 50% of the designated amount contemplated therein in respect of the security.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71.

Corresponding Federal Provision: 127.2(8)(a).

Deemed cost of acquisition.

776.19. For the purposes of this Part, where in a taxation year a person has acquired and is the first holder of a share in respect of which an amount was designated by a corporation under subsection 4 of section 192 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the cost to the person of that share is deemed to be that provided for in the second paragraph.

Computation of cost.

The cost to a person of a share contemplated in the first paragraph is equal to the amount by which

(a) its cost as otherwise determined to the person contemplated therein exceeds

(b) the designated amount contemplated therein in respect of the share.

History: 1985, c. 25, s. 134; 1997, c. 3, s. 71; 2017, c. 29, s. 161.

Corresponding Federal Provision: 127.2(8)(a).

Computation of excess.

776.20. Where the amount determined under paragraph *b* of section 776.18 or 776.19, as the case may be, exceeds the amount determined under paragraph *a* of the said section 776.18 or 776.19, as the case may be, the excess

(a) where the qualifying security or share, as the case may be, contemplated in section 776.18 or 776.19 respectively is a capital property to the person contemplated in the said section 776.18 or 776.19, as the case may be, is deemed to be a capital gain of the person for the year in which the qualifying security or share, as the case may be, is acquired, from the disposition of that property; and,

(b) where paragraph a does not apply, shall be included in computing the income of the person for the year of the acquisition.

Cost deemed nil.

The cost to that person of the qualifying security or share, as the case may be, is in that case deemed to be nil.

History: 1985, c. 25, s. 134.

Corresponding Federal Provision: 127.2(8)(b).

TITLE VI *(Repealed).*

CHAPTER I *(Repealed).*

776.21. *(Repealed).*

History: 1986, c. 15, s. 127; 1988, c. 4, s. 72; 1989, c. 5, s. 132.

776.21L. *(Repealed).*

History: 1988, c. 4, s. 73; 1989, c. 5, s. 132.

CHAPTER II *(Repealed).*

776.22. *(Repealed).*

History: 1986, c. 15, s. 127; 1988, c. 4, s. 74; 1989, c. 5, s. 132.

776.23. *(Repealed).*

History: 1986, c. 15, s. 127; 1987, c. 21, s. 32; 1988, c. 4, s. 75; 1989, c. 5, s. 132.

776.24. *(Repealed).*

History: 1986, c. 15, s. 127; 1987, c. 21, s. 33; 1988, c. 4, s. 76; 1989, c. 5, s. 132.

776.24.1. *(Repealed).*

History: 1987, c. 21, s. 34; 1988, c. 4, s. 77; 1989, c. 5, s. 132.

776.25. *(Repealed).*

History: 1986, c. 15, s. 127; 1989, c. 5, s. 132.

776.26. *(Repealed).*

History: 1986, c. 15, s. 127; 1988, c. 4, s. 78; 1989, c. 5, s. 132.

776.27. *(Repealed).*

History: 1986, c. 15, s. 127; 1987, c. 21, s. 35; 1989, c. 5, s. 132.

776.28. *(Repealed).*

History: 1986, c. 15, s. 127; 1989, c. 5, s. 132.

TITLE VII *(Repealed).*

CHAPTER I *(Repealed).*

776.29. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 133; 1989, c. 77, s. 86; 1991, c. 25, s. 93; 1992, c. 21, s. 171; 1993, c. 16, s. 290; 1993, c. 64, s. 85; 1994, c. 22, s. 272; 1995, c. 1, s. 86; 1995, c. 63, s. 88; 1997, c. 3, s. 71; 1997, c. 14, s. 137; 1997, c. 85, s. 173; 2003, c. 9, s. 108; 2005, c. 1, s. 186 [amended by 2006, c. 36, s. 300; 2007, c. 12, s. 345].

776.29.1. *(Repealed).*

History: 2001, c. 51, s. 74; 2004, c. 21, s. 215; 2005, c. 1, s. 186.

776.29.2. *(Repealed).*

History: 2004, c. 21, s. 216; 2005, c. 1, s. 186.

776.30. *(Repealed).*

History: 1988, c. 4, s. 79; 1995, c. 1, s. 87; 1997, c. 85, s. 174; 2003, c. 9, s. 109.

776.30.1. *(Repealed).*

History: 1997, c. 85, s. 175; 2001, c. 53, s. 148; 2003, c. 9, s. 110; 2005, c. 1, s. 186.

776.31. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 134; 1997, c. 85, s. 330; 2005, c. 1, s. 186.

CHAPTER II *(Repealed).*

776.32. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 135; 1997, c. 85, s. 176; 1999, c. 83, s. 112; 2005, c. 1, s. 186.

776.32.1. *(Repealed).*

History: 1997, c. 85, s. 177; 2005, c. 1, s. 186.

776.32.2. *(Repealed).*

History: 1997, c. 85, s. 177; 2005, c. 1, s. 186.

776.33. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 136; 1990, c. 7, s. 71; 1991, c. 8, s. 51; 1992, c. 1, s. 75; 1993, c. 19, s. 66; 1993, c. 64, s. 86; 1997, c. 85, s. 178; 1999, c. 83, s. 113; 2005, c. 1, s. 186.

776.34. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 137; 1989, c. 77, s. 87; 1991, c. 8, s. 52; 1992, c. 1, s. 76; 1993, c. 19, s. 67; 1995, c. 1, s. 88; 1997, c. 85, s. 179; 2001, c. 51, s. 75; 2005, c. 1, s. 186.

776.35. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 138; 1990, c. 7, s. 72; 1991, c. 8, s. 53; 1992, c. 1, s. 77; 1993, c. 19, s. 68; 1993, c. 64, s. 87; 1997, c. 85, s. 180.

776.36. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 139; 1990, c. 7, s. 73; 1994, c. 22, s. 273; 1997, c. 14, s. 138; 1997, c. 85, s. 180.

776.37. *(Repealed).*

History: 1988, c. 4, s. 79; 1997, c. 85, s. 181; 2005, c. 1, s. 186.

776.38. *(Repealed).*

History: 1988, c. 4, s. 79; 1996, c. 39, s. 212; 1997, c. 85, s. 330; 2005, c. 1, s. 186 [amended by 2007, c. 12, s. 345].

776.39. *(Repealed).*

History: 1988, c. 4, s. 79; 1999, c. 83, s. 114.

776.40. *(Repealed).*

History: 1988, c. 4, s. 79; 1997, c. 85, s. 182; 1999, c. 83, s. 114.

TITLE VIII*(Repealed).***776.41.** *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 140; 1990, c. 7, s. 74; 1991, c. 8, s. 54; 1992, c. 1, s. 78; 1993, c. 19, s. 69; 1993, c. 64, s. 88; 1995, c. 63, s. 89.

TITLE IX**TRANSFER TO SPOUSE OF UNUSED PORTION OF NON-REFUNDABLE TAX CREDITS****Eligible spouse.**

776.41.1. In this Title, the eligible spouse of an individual for a taxation year means

(a) where the taxation year is not the taxation year referred to in paragraph *b*,

i. the person who is the spouse of the individual at the end of 31 December of the year and who, at that time, is not living separate and apart from the individual, or

ii. where the individual does not have a spouse at the end of 31 December of the year, the last person who, during the year, has been the spouse of the individual, if that person died in the year and if, at the time of death, that person was the spouse of the individual and was not living separate and apart from the individual; and

(b) where the taxation year is the taxation year in which the individual dies,

i. the person who, at the time of the individuals' death, was the spouse of the individual and who, at that time, was not living separate and apart from the individual, except if that person was the spouse of another individual at the end of 31 December of the year or, if the person died in the year, at the time of the person's death, or

ii. where the individual did not have a spouse at the time of the individual's death, the last person who, during the year, had been the spouse of the individual, if that person died in the year and if, at the time of death, the person was the spouse of the individual and was not living separate and apart from the individual.

History: 2003, c. 9, s. 111.

Spouses living separate and apart.

776.41.2. For the purposes of section 776.41.1, a person shall not be considered to be living separate and apart from an individual at any time in a taxation year unless the person was living separate and apart from the individual at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time.

History: 2003, c. 9, s. 111.

Multiple eligible spouses.

776.41.3. For the purposes of section 776.41.1, where an individual would, but for this section, have more than one eligible spouse for a taxation year, the individual is deemed to have only one eligible spouse for the year and to be the eligible spouse for the year of that person only.

Designation.

For the purposes of section 776.41.1, where a person would, but for this section, be the eligible spouse of more than one individual for a taxation year, the Minister may designate which of the individuals is deemed to have that person as sole eligible spouse for the year and that person is deemed to be the eligible spouse for the year solely of the individual so designated by the Minister.

History: 2003, c. 9, s. 111.

Taxation year.

776.41.4. For the purposes of sections 776.41.1 to 776.41.3, “taxation year” has the meaning that would be assigned by this Part if it were read without reference to section 779.

History: 2003, c. 9, s. 111.

Deduction.

776.41.5. Subject to the fourth paragraph and sections 776.41.6 to 776.41.10, an individual who has an eligible spouse for a taxation year may deduct from the individual’s tax otherwise payable for the year under this Part, computed without reference to section 752.12, the amount determined by the formula

$A - B.$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the aggregate of all amounts each of which is an amount that the individual’s eligible spouse for the taxation year may deduct under this Book in computing the eligible spouse’s tax otherwise payable for the year under this Part, other than an amount deductible under any of sections 752.0.10.0.3, 752.0.10.0.9, 752.0.10.6.1, 752.12, 776.1.5.0.17 and 776.1.5.0.18; and

(b) B is the tax otherwise payable of the individual’s eligible spouse for the taxation year, computed without reference to the deductions provided for in this Book, except those provided for in sections 752.0.10.0.3, 752.0.10.0.9, 752.0.10.6.1, 752.12, 776.1.5.0.17 and 776.1.5.0.18.

Special rules.

For the purposes of subparagraph *a* of the second paragraph, the following rules apply:

(a) an individual whose eligible spouse for a taxation year transfers for the year an amount to another individual in accordance with the first paragraph of section 776.41.14 shall reduce the aggregate described in subparagraph *a* of the second paragraph by the total of all amounts each of which is an amount that the eligible spouse so transfers for the year to another individual; and

(b) if the eligible spouse of an individual for a taxation year may deduct, for the year, an amount under any of sections 752.0.10.6, 752.0.10.6.2, 752.0.11, 752.0.18.10, 752.0.18.15, 772.8, 776.1.1 and 776.1.2 (in this subparagraph referred to as the “deductible amount”), the individual may, in respect of the deductible amount, include in the aggregate described in subparagraph *a* of the second paragraph only the portion of the deductible amount claimed as a deduction by the eligible spouse in the fiscal return the eligible spouse files for the year.

Restriction.

An individual may deduct an amount under this section in computing the individual’s tax otherwise payable under this Part for a taxation year only if the individual and the individual’s eligible spouse for the year file a fiscal return for the year under this Part.

History: 2003, c. 9, s. 111; 2005, c. 1, s. 187; 2006, c. 36, s. 84; 2009, c. 5, s. 327; 2009, c. 15, s. 155; 2010, c. 25, s. 85; 2011, c. 34, s. 40; 2013, c. 10, s. 64; 2015, c. 21, s. 319; 2019, c. 14, s. 267.

Deductible amount.

776.41.6. Where an individual is referred to in the second paragraph of section 22 or 25, the amount that may be deducted by the individual under section 776.41.5 in computing the individual’s tax otherwise payable for a taxation year under this Part shall not exceed the portion of the amount that is the proportion referred to in the second paragraph of section 22 or 25, as the case may be.

History: 2003, c. 9, s. 111.

Rules applicable.

776.41.7. Where an individual is resident in Canada only during part of a taxation year, the following rules apply for the purpose of determining the amount that may be deducted by the individual under section 776.41.5 in computing the individual’s tax otherwise payable for the year under this Part:

(a) in respect of any period in the year throughout which the individual was resident in Canada, the amount deductible under section 776.41.5 must be computed as though that period were a whole taxation year and the amount that would have been deductible under section 776.41.5, if the individual had been resident in Canada throughout the year, were replaced by an amount equal to the proportion of the amount that the number of days in that period is of the number of days in the year; and

(b) in respect of a period in the year that is not referred to in subparagraph *a*, the amount deductible under section 776.41.5 must be computed as though that period were a whole taxation year.

Maximum amount.

Notwithstanding the foregoing, the amount deductible by the individual for the year under section 776.41.5, as a consequence of the application of the rules set out in the first paragraph, shall not exceed the amount that would have been otherwise deductible, under section 776.41.5, if the individual had been resident in Canada throughout the year.

History: 2003, c. 9, s. 111.

Provision not applicable.

776.41.8. Where an individual is referred to in the second paragraph of section 26, section 776.41.5 does not apply for the purpose of computing the individual's tax otherwise payable for a taxation year under this Part.

Exception.

However, where all or substantially all of the individual's income for the year, as determined under section 28, is included in computing the individual's taxable income earned in Canada for the year, determined with reference to the third paragraph, the individual may deduct, in computing the individual's tax otherwise payable for the year under this Part, such portion of the amount, as determined under section 776.41.5, that is the proportion referred to in the second paragraph of section 26.

Special rule.

For the purposes of the second paragraph, the taxable income earned in Canada by an individual for a taxation year is determined as if section 1090 were read for the year without reference to its second, third and fourth paragraphs and as if subparagraph *a* of the first paragraph of that section were replaced, for the year, by the following subparagraph:

“(a) the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties;”

History: 2003, c. 9, s. 111; 2015, c. 36, s. 54.

Death of individual.

776.41.9. Where an individual dies in a taxation year, the amount determined in respect of the individual for the year under section 776.41.5 may be deducted only in computing the individual's tax payable as indicated in the fiscal return the individual is required to file for the year under this Part, otherwise than as the result of an election made by the individual's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

Death of eligible spouse.

Where the eligible spouse of an individual for a taxation year dies in the year, the individual may deduct, in computing the individual's tax payable for the year under section 776.41.5, only the amount determined by the formula provided for in the first paragraph of that section on the basis of the amounts indicated in the fiscal return of the individual's eligible spouse for the year filed under this Part, otherwise than as the result of an election made by the individual's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

History: 2003, c. 9, s. 111.

Individual in bankruptcy.

776.41.10. Where an individual has become a bankrupt during a calendar year, the individual may, for that year, deduct an amount under section 776.41.5 only in computing the individual's tax payable as indicated in the fiscal return the individual is required to file under this Part for the taxation year that is deemed, under section 779, to commence on the date of the bankruptcy.

Eligible spouse in bankruptcy.

Where the eligible spouse of an individual for a taxation year has become a bankrupt during a calendar year, the amount that the individual may deduct for the taxation year under section 776.41.5 in computing the individual's tax payable is equal to the aggregate of all amounts each of which is the amount determined under the first paragraph of section 776.41.5 for each of the taxation years of the eligible spouse that is included in the calendar year.

History: 2003, c. 9, s. 111.

Presumption.

776.41.11. Where an individual deducts an amount under section 776.41.5 in computing tax payable under this Part for a taxation year, and where a portion of that amount is reasonably attributable to a deduction to which the eligible spouse of the individual for the year is entitled for the year under a particular provision referred to in the second paragraph, the portion of that amount is deemed to be deducted under the particular provision by the eligible spouse in computing tax payable under this Part for the year for the purpose of determining the amount that the eligible spouse will be entitled to deduct, under the particular provision or another particular provision, in computing the tax payable under this Part for another taxation year.

Provisions referred to.

The provisions to which the first paragraph refers are sections 752.0.10.6, 752.0.10.6.2, 752.0.11, 752.0.18.10, 752.0.18.15, 772.8, 776.1.1 and 776.1.2.

Ordering of provisions.

For the purpose of determining the portion of the amount that an individual may deduct under section 776.41.5 in computing tax payable under this Part for a taxation year that is reasonably attributable to a deduction to which the eligible spouse of the individual for the year is entitled for the year under a particular provision referred to in the second paragraph, the provisions referred to in that paragraph shall be applied in the order provided for in that paragraph.

History: 2003, c. 9, s. 111; 2015, c. 21, s. 320.

TITLE X**TRANSFER OF THE UNUSED PORTION OF A STUDENT'S BASIC PERSONAL TAX CREDIT****Definitions:**

776.41.12. In this Title,

“designated educational institution”;

“designated educational institution” means an educational institution that the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology designates for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level established under the Act respecting financial assistance for education expenses (chapter A-13.3);

“eligible student”;

“eligible student” for a taxation year means, subject to the second paragraph, a person who is 18 years of age or over during the year and who began, in the year, a recognized term of study at a designated educational institution where the person was enrolled in a recognized educational program;

“recognized educational program”;

“recognized educational program” means an educational program that provides that each student taking the program spend not less than 9 hours per week on courses or work in the program and that is,

(a) if the educational institution is situated in Québec, an educational program recognized by the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level established under the Act respecting financial assistance for education expenses; and

(b) if the educational institution is situated outside Québec, an educational program at the college level or at the university level or the equivalent;

“recognized term of study”.

“recognized term of study” means a term that is completed and during which a person was in full-time attendance at a designated educational institution.

Proof of enrolment.

However, a person is an eligible student only if the person's enrolment in a recognized educational program at a designated educational institution is proven by filing with the Minister a declaration in the prescribed form issued by the designated educational institution and containing prescribed information.

History: 2009, c. 5, s. 328; 2013, c. 28, s. 139.

Major functional deficiency.

776.41.13. For the purposes of this Title, if a person has a major functional deficiency within the meaning of the Regulation respecting financial assistance for education expenses (chapter A-13.3, r. 1), and the person, for that reason, pursues studies on a part-time basis during a taxation year, the following rules apply:

(a) the person is deemed to be pursuing studies on a full-time basis during the year; and

(b) the definition of “recognized educational program” in the first paragraph of section 776.41.12 is to be read as if “spend not less than 9 hours per week on courses or work in the program” was replaced by “receive a minimum of 20 hours of instruction per month”.

History: 2009, c. 5, s. 328.

Transfer of unused portion of basic personal tax credit.

776.41.14. An individual who is the father or mother of an eligible student for a taxation year may deduct from the individual's tax otherwise payable for the year under this Part the amount that the eligible student transfers to the individual for the year, for the purposes of this Title, by means of the prescribed form containing prescribed information and that may not exceed the amount determined by the formula

$$A - B - C.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount obtained by multiplying the percentage determined under section 750.1 for the year by

i. \$10,222, if the eligible student began in the year at least two recognized terms of study, or

ii. the amount by which \$10,222 exceeds \$2,861, if the eligible student began in the year only one recognized term of study;

(b) B is the total of

i. the amount obtained by multiplying the percentage determined under section 750.1 for the year by the aggregate of all amounts each of which is an amount determined for the year under any of sections 752.0.0.4 to 752.0.0.6 in respect of the eligible student, or

ii. the aggregate of all amounts each of which has been paid, in the year, to the eligible student in respect of an amount deemed under section 1029.8.116.16 to be an overpayment of the eligible student's tax payable or of another individual's tax payable; and

(c) C is the eligible student's tax otherwise payable for the year under this Part, computed without reference to the deductions under this Book.

Special rule.

For the purpose of determining, for a taxation year, the amount that an eligible student who reaches 18 years of age in the year may transfer to an individual for the purposes of the first paragraph, subparagraph *a* of the second paragraph is to be read as follows:

“(a) A is the amount obtained by multiplying the percentage determined under section 750.1 for the year by the total of

i. \$2,861 in respect of each recognized term of study, without exceeding two, that the eligible student began in the year, and

ii. the proportion that the number of months in the year following the month in which the eligible student reaches 18 years of age is of 12, multiplied by the amount by which \$10,222 exceeds the amount obtained by multiplying \$2,861 by 2;”.

Restriction.

An individual may deduct an amount under this section in computing the individual's tax otherwise payable under this Part for a taxation year only if

(a) the individual files a fiscal return for the year under this Part; and

(b) the eligible student of whom the individual is the father or mother files a fiscal return for the year under this Part, together with the prescribed form.

History: 2009, c. 5, s. 328; 2010, c. 25, s. 86; 2011, c. 6, s. 169; 2015, c. 36, s. 55; 2017, c. 29, s. 162.

Maximum deduction.

776.41.15. If, for a taxation year, more than one individual is entitled to deduct an amount under section 776.41.14 in respect of the same eligible student, the aggregate of the amounts that the individuals may so deduct may not exceed the limit that is the amount that one of those individuals could deduct for the year under section 776.41.14 in respect of the student, if the individual were the only individual to whom the eligible student could transfer an amount for the year in accordance with the first paragraph of that section.

Determination by Minister.

If the aggregate of the amounts that the individuals could, but for this section, deduct for the year under section 776.41.14 in respect of the eligible student exceeds the limit provided for in the first paragraph, the Minister may determine the amount that each of the individuals may deduct for the year in respect of the student under that section and the amount so

determined is deemed to be the amount that the eligible student transferred for the year to the individual in accordance with the first paragraph of that section.

History: 2009, c. 5, s. 328.

Maximum deduction.

776.41.16. The amount that an individual referred to in the second paragraph of section 22 or 25 may deduct, under section 776.41.14, from the individual's tax otherwise payable for a taxation year under this Part may not exceed the portion of that amount that is the proportion referred to in the second paragraph of section 22 or 25.

History: 2009, c. 5, s. 328.

Individual resident in Canada for part of year.

776.41.17. The following rules apply for the purpose of determining the amount that an individual who was resident in Canada for only part of a taxation year may deduct, under section 776.41.14, from the individual's tax otherwise payable for the year under this Part in relation to an eligible student:

(a) in respect of any period in the year throughout which the individual was resident in Canada, the amount deductible under section 776.41.14 in relation to the student is to be established as if the period was a whole taxation year and the amount that the student transfers to the individual for the purposes of the first paragraph of section 776.41.14 was replaced by the proportion of that amount that the number of days in the period is of the number of days in the year; and

(b) in respect of a period in the year that is not referred to in subparagraph *a*, the amount deductible under section 776.41.14 in relation to the student is to be established as if the period was a whole taxation year.

Maximum deduction.

However, the amount that the individual may deduct for the year under section 776.41.14 in respect of the eligible student, as a consequence of the application of the rules of the first paragraph, must not exceed the amount that would otherwise have been deductible in respect of the student, under that section, if the individual had been resident in Canada throughout the year.

History: 2009, c. 5, s. 328.

Individual not resident in Canada.

776.41.18. Section 776.41.14 does not apply for the purpose of computing the tax otherwise payable of an individual referred to in the second paragraph of section 26 for a taxation year under this Part.

Exception.

However, an individual all or substantially all of whose income for the year, determined under section 28, is included in computing the individual's taxable income earned in Canada for the year, determined with reference to the third paragraph, may deduct, from the individual's tax otherwise payable for the year under this Part, the portion of the amount, determined under section 776.41.14, that is the proportion referred to in the second paragraph of section 26.

Special rule.

For the purposes of the second paragraph, the taxable income earned in Canada by an individual for a taxation year is determined as if section 1090 were read for the year without reference to its second, third and fourth paragraphs and as if subparagraph *a* of the first paragraph of that section were replaced, for the year, by the following subparagraph:

“(a) the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties;”

History: 2009, c. 5, s. 328; 2015, c. 36, s. 56.

Bankruptcy.

776.41.19. The amount that an individual who became a bankrupt in a calendar year may deduct, under section 776.41.14, from the individual's tax otherwise payable under this Part for each of the individual's taxation years referred to in section 779 that end in the calendar year is equal to the portion of that amount, otherwise determined, that is the proportion that the number of days in that taxation year is of the number of days in the calendar year.

History: 2009, c. 5, s. 328.

Death of transferee.

776.41.20. An individual who dies in a taxation year may deduct an amount for the year under section 776.41.14 only in computing the individual's tax payable as specified in the individual's fiscal return that is required to be filed for the year under this Part, otherwise than because of an election made by the individual's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

Death of eligible student.

An individual may deduct for a taxation year under section 776.41.14 in respect of an eligible student who dies in the year only the amount that is transferred to the individual by means of the prescribed form that is enclosed with the eligible student's fiscal return that is required to be filed for the year under this Part, otherwise than because of an election made by the eligible student's legal representative

in accordance with the second paragraph of section 429 or section 681 or 1003.

History: 2009, c. 5, s. 328.

TITLE XI

TRANSFER OF THE UNUSED PORTION OF THE TAX CREDIT FOR TUITION FEES AND EXAMINATION FEES

Determination of amount of transfer.

776.41.21. An individual who is the father, mother, grandfather or grandmother of a person may deduct, from the individual's tax otherwise payable for a taxation year under this Part, the amount that the person transfers to the individual for the year, for the purposes of this Title, by means of the prescribed form containing prescribed information and that may not exceed the amount determined by the formula

$A - B.$

Interpretation.

In the formula in the first paragraph,

(a) A is

i. for a taxation year subsequent to the taxation year 2013, the amount obtained by multiplying 8% by the aggregate of all amounts each of which is either the amount of the person's tuition fees that are paid in respect of the year and referred to in subparagraph i of paragraph *a* of section 752.0.18.10 or the amount of the person's examination fees that are paid in respect of the year and referred to in any of subparagraphs ii to iv of that paragraph *a*, or

ii. for the taxation year 2013, the aggregate of

(1) the amount obtained by multiplying 8% by the aggregate of all amounts each of which is either the amount of the person's tuition fees that are referred to in subparagraph v or vi of paragraph *a* of section 752.0.18.10 or the amount of the person's examination fees that are referred to in subparagraph vii of that paragraph *a*, and

(2) the amount obtained by multiplying 20% by the aggregate of all amounts each of which is either the amount of the person's tuition fees that are referred to in subparagraph v or vi of paragraph *b* of section 752.0.18.10 or the amount of the person's examination fees that are referred to in subparagraph vii of that paragraph *b*; and

(b) B is the person's tax otherwise payable for the year under this Part, computed by taking into account only the amounts that the person may deduct under sections 752.0.0.1, 752.0.1, 752.0.7.4, 752.0.10.0.3, 752.0.10.0.5, 752.0.10.0.7, 752.0.10.0.9, 752.0.10.6 to 752.0.10.6.2, 752.0.11, 752.0.13.1, 752.0.13.1.1, 752.0.14, 752.0.18.3, 752.0.18.8, 776.1.5.0.17, 776.1.5.0.18 and 776.41.14.

Rule applicable to certain tax credits.

For the purposes of subparagraph *b* of the second paragraph, the amount that a person may, if applicable, deduct, for a taxation year, under any of sections 752.0.10.6 to 752.0.10.6.2 and 752.0.11 is deemed to be equal to the portion of that amount that the person claims as a deduction in the person's fiscal return that the person files for the year under this Part.

Restrictions.

A person may transfer an amount for a taxation year, in accordance with the first paragraph, to no more than one individual, provided the aggregate of the amounts described in subparagraph *a* of the second paragraph in respect of the person exceeds \$100.

Restriction relating to individuals.

An individual may deduct an amount under this section in computing the individual's tax otherwise payable under this Part for a taxation year only if

(a) the individual files a fiscal return for the year under this Part; and

(b) the person of whom the individual is the father, mother, grandfather or grandmother files a fiscal return for the year under this Part, together with the prescribed form.

History: 2009, c. 5, s. 328; 2010, c. 25, s. 87; 2012, c. 8, s. 138; 2013, c. 10, s. 65; 2015, c. 21, s. 321; 2015, c. 24, s. 110; 2019, c. 14, s. 268.

Maximum deduction.

776.41.22. The amount that an individual referred to in the second paragraph of section 22 or 25 may deduct, under section 776.41.21, from the individual's tax otherwise payable for a taxation year under this Part may not exceed the portion of that amount that is the proportion referred to in the second paragraph of section 22 or 25.

History: 2009, c. 5, s. 328.

Individual resident in Canada for part of year.

776.41.23. The following rules apply for the purpose of determining the amount that an individual who was resident in Canada for only part of a taxation year may deduct, under section 776.41.21, from the individual's tax otherwise payable for the year under this Part in relation to a person:

(a) in respect of any period in the year throughout which the individual was resident in Canada, the individual may deduct under section 776.41.21, in relation to the person, the portion of the amount that the person transfers to the individual for the year, in accordance with the first paragraph of that section, that may reasonably be considered to be entirely attributable to such a period, established as if the period was a whole taxation year; and

(b) in respect of a period in the year that is not referred to in subparagraph *a*, the amount deductible under section 776.41.21 in relation to the person is to be established as if the period was a whole taxation year.

Maximum deduction.

However, the amount that the individual may deduct for the year under section 776.41.21 in respect of the person, as a consequence of the application of the rules of the first paragraph, must not exceed the amount that would otherwise have been deductible in respect of the person, under that section, if the individual had been resident in Canada throughout the year.

History: 2009, c. 5, s. 328.

Individual not resident in Canada.

776.41.24. Section 776.41.21 does not apply for the purpose of computing the tax otherwise payable of an individual referred to in the second paragraph of section 26 for a taxation year under this Part.

Exception.

However, an individual all or substantially all of whose income for the year, determined under section 28, is included in computing the individual's taxable income earned in Canada for the year, determined with reference to the third paragraph, may deduct, from the individual's tax otherwise payable for the year under this Part, the portion of the amount, determined under section 776.41.21, that is the proportion referred to in the second paragraph of section 26.

Special rule.

For the purposes of the second paragraph, the taxable income earned in Canada by an individual for a taxation year is determined as if section 1090 were read for the year without reference to its second, third and fourth paragraphs and as if subparagraph *a* of the first paragraph of that section were replaced, for the year, by the following subparagraph:

“(a) the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties;”

History: 2009, c. 5, s. 328; 2015, c. 36, s. 57.

Bankruptcy.

776.41.25. The amount that an individual who became a bankrupt in a calendar year may deduct, under section 776.41.21, from the individual's tax otherwise payable under this Part for each of the individual's taxation years referred to in section 779 that end in the calendar year, is equal to the portion of that amount, otherwise determined,

that is the proportion that the number of days in that taxation year is of the number of days in the calendar year.

History: 2009, c. 5, s. 328.

Death of transferee.

776.41.26. An individual who dies in a taxation year may deduct an amount for the year under section 776.41.21 only in computing the individual's tax payable as specified in the individual's fiscal return that is required to be filed for the year under this Part, otherwise than because of an election made by the individual's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

Death of transferor.

An individual may deduct for a taxation year under section 776.41.21 in respect of a person who dies in the year only the amount that is transferred to the individual by means of the prescribed form that is enclosed with the person's fiscal return that is required to be filed for the year under this Part, otherwise than because of an election made by the person's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

History: 2009, c. 5, s. 328.

**BOOK V.1
ALTERNATIVE MINIMUM TAX**

**TITLE I
LIABILITY**

Computation of tax payable by an individual.

776.42. Notwithstanding any other provision of this Act and subject to section 766.3.7, where the amount that is an individual's tax otherwise payable for a taxation year under Book V is less than the amount by which the minimum tax applicable to the individual for the year, determined under section 776.46, exceeds the aggregate of the amounts referred to in sections 772.2 to 772.13.3, the individual's tax payable under this Part for the year is equal to that excess amount.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 141; 1990, c. 59, s. 298; 1992, c. 1, s. 79; 1995, c. 1, s. 89; 1995, c. 63, s. 90; 1996, c. 39, s. 273; 1997, c. 85, s. 183; 2000, c. 5, s. 173; 2001, c. 53, s. 149; 2005, c. 23, s. 111; 2012, c. 8, s. 139; 2015, c. 21, s. 322.

Corresponding Federal Provision: 127.5.

Special cases.

776.43. Section 776.42 also applies to an individual referred to in the second paragraph of section 22, 25 or 26.

Interpretation.

In such a case, section 776.42 shall be construed as if the proportion referred to in the second paragraph of the said

sections applied to the tax otherwise payable by the individual for the taxation year computed under Book V.

Minimum tax.

The proportion referred to in the second paragraph of the said sections applies in respect of the amount determined by the formula in the first paragraph of section 776.46, in relation to the minimum tax applicable to the individual for the year.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 142; 1995, c. 1, s. 90; 1997, c. 85, s. 184; 2001, c. 53, s. 150; 2015, c. 21, s. 323.

776.44. (Repealed).

History: 1988, c. 4, s. 79; 1989, c. 5, s. 143; 1992, c. 1, s. 80; 2005, c. 23, s. 112.

Where s. 776.42 does not apply.

776.45. Section 776.42 does not apply in respect of

(a) a separate return of income of the individual filed under the second paragraph of section 429 or section 681, 782 or 1003;

(b) *(paragraph repealed)*;

(c) the taxation year in which the individual dies;

(d) the taxation year 1986 of a taxpayer who died in 1987;

(d.1) a taxation year of a trust throughout which the trust is a segregated fund trust, within the meaning of subparagraph *k* of the first paragraph of section 835, a mutual fund trust, an employee life and health trust, or a master trust within the meaning of the regulations made under paragraph *c.4* of section 998;

(e) a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or in subparagraph *a.1* of the said first paragraph for its taxation year that includes the day determined in respect of the trust under any of those subparagraphs;

(f) *(paragraph repealed)*.

History: 1988, c. 4, s. 79; 1990, c. 59, s. 299; 1993, c. 16, s. 291; 1994, c. 22, s. 274; 1997, c. 85, s. 185; 2000, c. 5, s. 174; 2001, c. 53, s. 151; 2005, c. 23, s. 113; 2010, c. 25, s. 88; 2011, c. 6, s. 170.

Corresponding Federal Provision: 127.55.

**TITLE II
MINIMUM TAX APPLICABLE TO AN
INDIVIDUAL**

Minimum amount determined.

776.46. An individual's minimum tax for a taxation year is equal to the aggregate of the amount that the individual is required to add to the individual's tax payable for the year

under this Part in accordance with section 766.3.2 and the amount determined by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is a rate of

- i. 22%, where the taxation year is the year 2000,
- ii. 20.75%, where the taxation year is the year 2001,
- iii. 20%, where the taxation year is the year 2002,
- iv. 16%, where the taxation year is subsequent to the year 2002 and precedes the year 2017, and
- v. 15%, where the taxation year is the year 2017 or a subsequent year;

(b) the letter B represents the adjusted taxable income of the individual for the year determined under Title IV;

(c) the letter C represents

- i. in the case of an individual (other than a trust) or a succession that is a graduated rate estate, \$40,000, and
- ii. in any other case, an amount equal to zero; and

(d) the letter D represents his basic minimum tax deduction for the year determined under section 776.65;

(e) *(subparagraph repealed)*.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 144; 1993, c. 64, s. 89; 1997, c. 85, s. 330; 2001, c. 51, s. 76; 2005, c. 23, s. 114; 2005, c. 38, s. 196; 2015, c. 21, s. 324; 2017, c. 1, s. 235; 2017, c. 29, s. 163.

Corresponding Federal Provision: 127.51.

TITLE III

(Repealed).

776.47. *(Repealed)*.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 145; 1990, c. 7, s. 75; 1992, c. 1, s. 81; 1993, c. 64, s. 90; 1997, c. 14, s. 290; 2005, c. 23, s. 115; 2017, c. 1, s. 236.

776.48. *(Repealed)*.

History: 1988, c. 4, s. 79; 1997, c. 14, s. 290; 2005, c. 23, s. 116; 2017, c. 1, s. 236.

776.49. *(Repealed)*.

History: 1988, c. 4, s. 79; 1997, c. 14, s. 290; 2005, c. 23, s. 116; 2010, c. 25, s. 89; 2017, c. 1, s. 236.

TITLE IV

ADJUSTED TAXABLE INCOME

CHAPTER I

INTERPRETATION

Definitions:

776.50. In this Title,

(a) *(paragraph repealed)*;

“rental or leasing property”;

(a.1) “rental or leasing property” means a property that is a rental property or a leasing property for the purposes of Title XII of the Regulation respecting the Taxation Act (chapter I-3, r. 1);

“limited partner”;

(a.2) “limited partner” has the meaning that would be assigned by section 613.6 if that section were read without reference to “if his partnership interest is not an exempt interest at that time, within the meaning assigned by section 613.7, and”;

“film property”.

(b) “film property” means a property described in subparagraph *n* or *r* of the first paragraph of class 12 of Schedule B to the Regulation respecting the Taxation Act or a prescribed property.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 146; 1993, c. 19, s. 70; 2000, c. 5, s. 175; 2009, c. 15, s. 156.

Corresponding Federal Provision: 127.52(3).

CHAPTER II

DETERMINATION OF ADJUSTED TAXABLE INCOME

Adjusted taxable income.

776.51. An individual’s adjusted taxable income for a taxation year is the amount that would represent his taxable income for the year or his taxable income earned in Canada for the year, as the case may be, if it were computed with reference to the rules prescribed in sections 776.53 to 776.64.

History: 1988, c. 4, s. 79; 2001, c. 53, s. 152.

Corresponding Federal Provision: 127.52(1) before (a).

776.52. *(Repealed)*.

History: 1988, c. 4, s. 79; 1991, c. 25, s. 94; 1993, c. 16, s. 394; 1997, c. 14, s. 139; 2001, c. 53, s. 153.

Deductions in respect of rental or leasing property.

776.53. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible under paragraph *a* of section 130 or any of sections 147, 160, 163, 176, 176.4, 176.6 and 179 in computing the individual’s income for the year in respect of a rental or leasing property,

other than an amount included in the individual's share of a loss referred to in section 776.55.1, shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible; and

(b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

i. the aggregate of all amounts each of which is the individual's income for the year from the renting or leasing of a rental or leasing property owned by the individual or by a partnership, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179, and

ii. the amount by which the aggregate of all amounts each of which is the individual's taxable capital gain for the year from the disposition of a rental or leasing property owned by the individual or by a partnership exceeds the aggregate of all amounts each of which is the individual's allowable capital loss for the year from the disposition of such a property.

Amount.

The amount to which subparagraph *b* of the first paragraph refers is equal to the aggregate of all amounts each of which is the individual's loss for the year from the renting or leasing of a rental or leasing property owned by the individual or by a partnership, other than an amount included in the individual's share of a loss referred to in section 776.55.1, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179.

History: 1988, c. 4, s. 79; 1997, c. 3, s. 71; 2000, c. 5, s. 176.

Corresponding Federal Provision: 127.52(1)(b).

Capital cost allowance in respect of film property.

776.54. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible under paragraph *a* of section 130 or any of sections 147, 160, 163, 176, 176.4, 176.6, 179, 726.4.1, 726.4.3 and 726.4.4 in computing the individual's income or taxable income, as the case may be, for the year in respect of a film property that is a property referred to in subparagraph *r* of the first paragraph of Class 12 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) or paragraph *q* or *r* of the second paragraph of Class 10 of that schedule, other than an amount included in the individual's share of a loss referred to in section 776.55.1, shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible; and

(b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

i. the aggregate of all amounts each of which is the individual's income for the year from the renting or leasing of a film property owned by the individual or by a partnership, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179, and

ii. the amount by which the aggregate of all amounts each of which is the individual's taxable capital gain for the year from the disposition of such a film property owned by the individual or by a partnership exceeds the aggregate of all amounts each of which is the individual's allowable capital loss for the year from the disposition of such a film property.

Amount.

The amount to which subparagraph *b* of the first paragraph refers is equal to the aggregate of all amounts each of which is the individual's loss for the year from such a film property owned by the individual or by a partnership, other than amounts included in the individual's share of a loss referred to in section 776.55.1, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 147; 1997, c. 3, s. 71; 2000, c. 5, s. 176; 2009, c. 15, s. 157.

Corresponding Federal Provision: 127.52(1)(c).

Amounts deductible.

776.54.1. For the purposes of section 776.51, the aggregate of all amounts deductible by the individual in computing the individual's taxable income for the year under any of sections 726.3, 726.4 and 726.4.0.1 is to be determined as if it were equal,

(a) (*paragraph repealed*);

(b) in the case of section 726.3, to the aggregate of all amounts each of which is equal to the portion of the amount otherwise deducted by the individual for the year, under that section 726.3, in respect of the aggregate of the individual's interest in a qualified investment and the individual's additional interest in respect of the qualified investment, within the meaning assigned by paragraphs *b.2* and *c* of section 965.29, that exceeds the aggregate of the amount of the individual's interest in the qualified investment and the individual's additional interest in respect of the qualified investment;

(c) in the case of section 726.4, to the aggregate of all amounts each of which is equal to the portion of the amount otherwise deducted by the individual for the year, under that section 726.4, in respect of a qualifying security, within the meaning of paragraph *d* of section 965.35 or section 965.39.1, that exceeds its cost to the individual; and

(d) in the case of section 726.4.0.1, to the aggregate of all amounts each of which is equal to the amount otherwise

deducted by the individual for the year, under section 726.4.0.1, in respect of a qualifying share or qualifying security, within the meaning of the first paragraph of section 965.55, that exceeds its cost to the individual.

History: 2000, c. 39, s. 94; 2006, c. 37, s. 35; 2007, c. 12, s. 93; 2017, c. 29, s. 164.

Additional deduction in respect of film properties.

776.55. For the purposes of section 776.51, the aggregate of all amounts deductible by the individual in computing his taxable income for the year under sections 726.4.5, 726.4.6 and 726.4.7 in respect of film properties shall be established as if it were equal to the lesser of

(a) the aggregate of the amounts otherwise so deductible in computing his taxable income for the year; and

(b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

i. the aggregate of all amounts each of which is the individual's income for the year from the renting or leasing of a film property owned by the individual or by a partnership, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179, and

ii. the amount by which the aggregate of all amounts each of which is the individual's taxable capital gain for the year from the disposition of a film property owned by the individual or by a partnership exceeds the aggregate of all amounts each of which is the individual's allowable capital loss for the year from the disposition of such a film property.

Amount.

The amount to which subparagraph *b* of the first paragraph refers is equal to the aggregate of

(a) the lesser of the amounts determined under subparagraphs *a* and *b* of the first paragraph of section 776.54 in respect of the individual for the year; and

(b) all amounts each of which is the individual's loss for the year from a film property owned by the individual or by a partnership, other than amounts included in the individual's share of a loss referred to in section 776.55.1, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 148; 1997, c. 3, s. 71; 2000, c. 5, s. 177.

Member's share of the partnership's loss.

776.55.1. For the purposes of section 776.51, where, during a partnership's fiscal period that ends in the year, other than a fiscal period the end of which coincides with that of a fiscal period of the partnership to which

subsection 1 of section 99 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies, the individual's interest in the partnership is an interest for which an identification number is required to be, or has been, obtained under Book X.1, the following rules apply:

(a) the individual's share of allowable capital losses of the partnership for the fiscal period shall be established as if it were equal to the lesser of

i. the aggregate of all amounts each of which is

(1) the individual's share of a taxable capital gain for the fiscal period from the disposition of property, other than property acquired by the partnership in a transaction to which the second paragraph of section 614 applies, or

(2) the individual's taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person with whom the individual does not deal at arm's length, does not, or would not, but for paragraph *a* of section 618 and section 640, have an interest in the partnership throughout the following taxation year, and

ii. the individual's share of allowable capital losses of the partnership for the fiscal period;

(b) the individual's share of each loss from a business of the partnership for the fiscal period shall be established as if it were equal to the lesser of

i. the individual's share of the loss, and

ii. the amount by which the aggregate of all amounts each of which is the individual's share of an allowable capital loss for the fiscal period is exceeded by the aggregate of all amounts each of which is

(1) the individual's share of a taxable capital gain for the fiscal period from the disposition of property used by the partnership in the business, other than property acquired by the partnership in a transaction to which the second paragraph of section 614 applies, or

(2) the individual's taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person with whom the individual does not deal at arm's length, does not, or would not, but for paragraph *a* of section 618 and section 640, have an interest in the partnership throughout the following taxation year; and

(c) the individual's share of losses from property of the partnership for the fiscal period shall be established as if it were equal to the lesser of

i. the aggregate of the individual's share of incomes for the fiscal period from properties of the partnership and the amount by which the aggregate of all amounts each of which is the individual's share of an allowable capital loss for the

fiscal period is exceeded by the aggregate of all amounts each of which is

(1) the individual's share of a taxable capital gain for the fiscal period from the disposition of property held by the partnership for the purpose of earning income from property, other than property acquired by the partnership in a transaction to which the second paragraph of section 614 applies, or

(2) the individual's taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person with whom the individual does not deal at arm's length, does not, or would not, but for paragraph *a* of section 618 and section 640, have an interest in the partnership throughout the following taxation year, and

ii. the individual's share of losses from property of the partnership for the fiscal period.

History: 2000, c. 5, s. 178; 2009, c. 5, s. 329; .

Corresponding Federal Provision: 127.52(1)(c.1).

Deductions in respect of an interest in a partnership.

776.55.2. For the purposes of section 776.51, where, during a partnership's fiscal period that ends in the year, other than a fiscal period the end of which coincides with that of a fiscal period of the partnership to which subsection 1 of section 99 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies, the individual is a limited partner of the partnership or a specified member of the partnership at all times since becoming a member of the partnership, or the partnership owns a rental or leasing property or a film property and the individual is a member of the partnership, the aggregate of all amounts each of which is an amount deductible under any of sections 147, 160, 163, 176, 176.4, 176.6 and 179 in computing the individual's income for the year in respect of the individual's acquisition of the partnership interest shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible; and

(b) the aggregate of all amounts each of which is the individual's share of any income of the partnership for the fiscal period, determined in accordance with section 600.

History: 2000, c. 5, s. 178; 2009, c. 5, s. 329.

Corresponding Federal Provision: 127.52(1)(c.2).

Allowable deduction in respect of a tax shelter.

776.55.3. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible in computing the individual's income for the year in respect of a property for which an identification number is required to be, or has been, obtained under Book X.1, other

than an amount to which any of sections 776.53 to 776.55.2 applies, shall be established as if it were nil.

History: 2000, c. 5, s. 178.

Corresponding Federal Provision: 127.52(1)(c.3).

Non-taxable capital gain.

776.56. For the purposes of section 776.51, except in respect of a disposition of property occurring before 1 January 1986 or to which sections 484 to 484.6 apply,

(a) the first paragraph of section 231 shall be construed as if the taxable capital gain, the allowable capital loss or the allowable business investment loss represented 80% of the capital gain, of the capital loss or of the business investment loss, as the case may be, from the disposition of property;

(b) section 265 shall be construed as if the taxable net gain represented 80% of the net gain from the disposition of precious property;

(c) each amount that is designated by a trust for a particular taxation year of the trust in respect of the individual and deemed by section 668 to be a taxable capital gain for the year of the individual is deemed to be equal to 80% of the quotient obtained when that amount is divided by the fraction provided for the purposes of section 231 in respect of the trust for the particular taxation year.

(d) *(paragraph repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 148; 1994, c. 22, s. 275; 1996, c. 39, s. 213; 2003, c. 2, s. 244; 2005, c. 23, s. 117; 2009, c. 5, s. 330; 2015, c. 21, s. 325.

Corresponding Federal Provision: 127.52(1)(d).

Amounts deductible by individual.

776.57. For the purposes of section 776.51, the aggregate of all amounts deductible by an individual in computing his income or his taxable income, as the case may be, for the year under sections 359 to 418.12, 419.1 to 419.4, 419.6, 600.1, 600.2 and 726.4.17.10 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to paragraphs 10 and 12 of section 29 of the Income Tax Application Rules, 1971 (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible by the individual in computing his income or his taxable income, as the case may be, for the year; and

(b) the aggregate of the following amounts:

i. his income for the year from royalties in respect of, and such part of his income, other than royalties, for the year as may reasonably be considered as attributable to, the production of petroleum, natural gas and minerals,

determined before deducting the amounts referred to in paragraph *a*,

i.1. his income for the year from property, or from the business of selling the product of property, described in Class 43.1 or 43.2 in Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1), determined before deducting the amounts referred to in paragraph *a*, and

ii. all amounts included in computing his income for the year under sections 330 to 333.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 149; 1990, c. 7, s. 76; 1992, c. 1, s. 82; 1998, c. 16, s. 251; 2000, c. 39, s. 95; 2015, c. 21, s. 326.

Corresponding Federal Provision: 127.52(1)e).

Deductions in respect of flow-through shares or resource property.

776.57.1. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible under any of sections 147, 160, 163, 176, 176.4, 176.6 and 179 in computing the individual's income for the year in respect of one of the properties described in the third paragraph, shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible; and

(b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of all amounts each of which is an amount described in subparagraph i or ii of paragraph *b* of section 776.57, determined without reference to sections 147, 160, 163, 176, 176.4, 176.6 and 179.

Amount.

The amount to which the first paragraph refers is equal to the aggregate of all amounts each of which is an amount deductible under any of sections 359 to 418.12, 419.1 to 419.4, 419.6, 600.1, 600.2 and 726.4.17.10 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsections 10 and 12 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) in computing the individual's income or taxable income, as the case may be, for the year.

Properties.

The properties to which the first paragraph refers are

(a) a flow-through share, if the individual is a person to whom the share was issued in accordance with an agreement referred to in the first paragraph of section 359.1;

(b) a Canadian resource property; and

(c) a foreign resource property.

History: 2000, c. 5, s. 179; 2000, c. 39, s. 96.

Corresponding Federal Provision: 127.52(1)(e.1).

Application of s. 776.51.

776.58. For the purposes of section 776.51, section 497 shall be read without reference to the second paragraph thereof.

History: 1988, c. 4, s. 79; 2001, c. 7, s. 108.

Corresponding Federal Provision: 127.52(1)(f).

Amounts deductible in computing the income of a trust.

776.59. For the purposes of section 776.51, the aggregate of all amounts deductible in computing the income of a trust for the year under sections 656.2, 657 and 657.4 shall be established as if it were equal to the total of the aggregate of all amounts otherwise deductible under those sections and the aggregate of all amounts each of which is 1/2 of

(a) an amount designated by the trust for the year under section 668; or

(b) that portion of a net taxable capital gain of the trust that may reasonably be considered

i. to be included in an amount included in computing the income for the year of a beneficiary of the trust under any of sections 661 to 663 if the beneficiary is not resident in Canada, or

ii. to have been paid in the year by a trust governed by an employee benefit plan to a beneficiary under that plan.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 150; 1990, c. 59, s. 300; 2003, c. 2, s. 245; 2005, c. 23, s. 118.

Corresponding Federal Provision: 127.52(1)(g).

Amount otherwise deductible.

776.60. For the purposes of section 776.51 and subject to the second paragraph, an amount otherwise deductible by the individual for the year in computing the individual's taxable income or the individual's taxable income earned in Canada, as the case may be, other than an amount referred to in this Title, must be equal to the amount that would otherwise be deductible were it not for this Book.

Exceptions.

The only amounts deductible by the individual for the year in computing the individual's taxable income or the individual's taxable income earned in Canada, as the case may be, under sections 725, 725.4 and 725.5 are

(a) as regards section 725, the amount that would be deductible under that section if section 776.56 were applicable in computing the individual's income for the year;

(b) *(subparagraph repealed)*;

(c) as regards sections 725.4 and 725.5, 1/2 of the amounts deducted under those sections.

History: 1988, c. 4, s. 79; 1989, c. 5, s. 151; 1990, c. 7, s. 77; 1992, c. 1, s. 83; 1993, c. 16, s. 292; 1993, c. 64, s. 91; 1995, c. 63, s. 91; 1997, c. 14, s. 140; 2000, c. 39, s. 97; 2003, c. 2, s. 246; 2005, c. 23, s. 119; 2019, c. 14, s. 269.

Corresponding Federal Provision: 127.52(1)(h).

Interpretation changed.

776.60.L. For the purposes of section 776.51, paragraph a of section 726.9.4 shall be read as if the reference therein to "3/4 of the amount" were a reference to "the amount".

History: 2000, c. 5, s. 180.

Corresponding Federal Provision: 127.52(1)(h.1).

Losses deductible.

776.61. For the purposes of section 776.51, the only amounts deductible by the individual for the year in computing his taxable income or his taxable income earned in Canada, as the case may be, under sections 727, 728.1, 729, 731 and 733.0.0.1 are

(a) as regards sections 727, 728.1, 731 and 733.0.0.1, the lesser of

i. the aggregate of all amounts deducted by him under the said sections for the year, and

ii. the aggregate of all amounts that would be deductible under the said sections for the year if

(1) sections 776.53, 776.54, 776.55 and 776.57, as they apply to taxation years that begin after 31 December 1985 and end before 1 January 1995, were applicable in computing the individual's non-capital loss, farm loss, restricted farm loss and limited partnership loss for any of those taxation years,

(2) sections 776.53 to 776.55.3, 776.57 and 776.57.1, as they apply to taxation years that begin after 31 December 1994 and end before 1 January 2012, were applicable in computing the individual's non-capital loss, farm loss, restricted farm loss and limited partnership loss for any of those taxation years, and

(3) sections 776.53 to 776.55.3, 776.57 and 776.57.1 were applicable in computing the individual's non-capital loss, farm loss, restricted farm loss and limited partnership loss for any taxation year that ends after 31 December 2011; and

(b) as regards section 729, the lesser of

i. the aggregate of all amounts each of which may reasonably be considered to be the amount he would have deducted under section 729, had section 776.56 been

applicable in computing the amount deductible under section 729; and

ii. the aggregate of all amounts that would be deductible under section 729 for the year if

(1) section 776.56 applied in computing the individual's net capital loss for any taxation year that begins before 1 January 1995,

(2) sections 776.55.1 and 776.56, as they apply to taxation years that begin after 31 December 1994 and end before 1 January 2012, applied in computing the individual's net capital loss for any of those taxation years, and

(3) sections 776.55.1 and 776.56 applied in computing the individual's net capital loss for any taxation year that ends after 31 December 2011.

History: 1988, c. 4, s. 79; 1993, c. 16, s. 293; 1996, c. 39, 214; 1997, c. 3, s. 71; 2000, c. 5, s. 181; 2015, c. 24, s. 112 [amended by 2019, c. 14, s. 610].

Corresponding Federal Provision: 127.52(1)(i).

Unused portion of the total investment expense.

776.61.L. For the purposes of section 776.51, the amount that is deductible by the individual in computing the individual's income for the year under section 336.6 is to be established as if it were equal to the lesser of

(a) the amount that the individual deducted under section 336.6 for the year; and

(b) the amount that would be deductible under section 336.6 for the year if sections 776.53 to 776.55.3, 776.57 and 776.57.1 were applicable in computing each unused portion of the total investment expense of the individual, within the meaning of section 336.5.

History: 2005, c. 38, s. 197.

Election not permitted.

776.62. For the purposes of section 776.51, no election may be made under section 89.2 of the Act respecting the application of the Taxation Act (chapter I-4).

History: 1988, c. 4, s. 79; 1998, c. 16, s. 251.

Corresponding Federal Provision: 127.52(1)(j).

776.63. *(Repealed).*

History: 1988, c. 4, s. 79; 1989, c. 5, s. 152.

Partnerships.

776.64. For the purposes of this chapter, any amount deductible under a provision of this Part in computing the income or loss of a partnership for a fiscal period is, to the extent of a member's share of the partnership's income or loss, deemed to be deductible by the member under that

provision in computing the member's income for the taxation year in which the fiscal period ends.

History: 1988, c. 4, s. 79; 1997, c. 3, s. 71; 2000, c. 5, s. 182.

Corresponding Federal Provision: 127.52(2).

Specified member of a partnership.

776.64.1. Where it can reasonably be considered that one of the main reasons that a member of a partnership was not a specified member of the partnership at all times since becoming a member of the partnership is to avoid the application of this Title in respect of the member's interest in the partnership, the member is deemed for the purposes of this Title to have been a specified member of the partnership at all times since becoming a member of the partnership.

History: 2000, c. 5, s. 183.

Corresponding Federal Provision: 127.52(2.1).

TITLE V

BASIC MINIMUM TAX DEDUCTION

Basic minimum tax deduction.

776.65. An individual's basic minimum tax deduction for a taxation year is the aggregate of all amounts each of which is

(a) the amount deducted under any of sections 752.0.0.1 to 752.0.10.0.9, 752.0.14, 752.0.18.3 to 752.0.18.15, 776.1.5.0.17, 776.1.5.0.18 and 776.41.14 in computing the individual's tax payable for the year under this Part; or

(b) the amount deducted under any of sections 752.0.10.1 to 752.0.13.3 in computing the individual's tax payable for the year under this Part, determined without reference to this Book, to the extent that the amount deducted does not exceed the maximum amount deductible under that section in computing the individual's tax payable for the year under this Part, determined without reference to this Book.

Rules applicable.

If the first paragraph applies to an individual referred to in the second paragraph of any of sections 22, 25 and 26, the following rules apply for the purpose of determining such an individual's basic minimum tax deduction for a taxation year:

(a) the amount deducted by the individual under any of sections 752.0.0.1 to 752.0.14 and 752.0.18.3 to 752.0.18.15 in computing the individual's tax payable for the year under this Part must be determined without reference to the proportion referred to in section 752.0.23 or 752.0.25; and

(b) the amount deducted by the individual under section 776.41.14 in computing the individual's tax payable for the year under this Part must be determined without

reference to the proportion referred to in section 776.41.16 or 776.41.18.

History: 1989, c. 5, s. 153; 1993, c. 64, s. 92; 1995, c. 63, s. 92; 1997, c. 14, s. 141; 1997, c. 85, s. 186 [amended by 1999, c. 83, s. 330]; 1999, c. 89, s. 53; O.C. 149-2000; 2003, c. 9, s. 112; 2005, c. 1, s. 188; 2005, c. 38, s. 198; 2006, c. 36, s. 85; 2009, c. 5, s. 331; 2011, c. 34, s. 41; 2012, c. 8, s. 140; 2015, c. 24, s. 113; 2019, c. 14, s. 270.

Corresponding Federal Provision: 127.531.

BOOK V.2

(Repealed).

776.66. *(Repealed).*

History: 1995, c. 1, s. 91; 1997, c. 85, s. 187.

BOOK V.2.1

(Repealed).

TITLE I

(Repealed).

776.67. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 115; 2001, c. 51, s. 77; 2002, c. 40, s. 82; 2004, c. 21, s. 217; 2005, c. 1, s. 189.

776.68. *(Repealed).*

History: 1997, c. 85, s. 188; 2002, c. 40, s. 83; 2005, c. 1, s. 189.

776.68.1. *(Repealed).*

History: 2003, c. 9, s. 113; 2005, c. 1, s. 189.

TITLE II

(Repealed).

776.69. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 114.

776.70. *(Repealed).*

History: 1997, c. 85, s. 188; 1998, c. 16, s. 251; 2000, c. 5, s. 184; 2001, c. 51, s. 78; 2001, c. 53, s. 154; 2003, c. 2, s. 247; 2003, c. 9, s. 114.

776.71. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 114.

776.72. *(Repealed).*

History: 1997, c. 85, s. 188; 2001, c. 7, s. 109; 2003, c. 9, s. 114.

776.73. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 114.

TITLE III
*(Repealed).***776.74.** *(Repealed).*

History: 1997, c. 85, s. 188; 2001, c. 53, s. 155; 2002, c. 40, s. 84; 2003, c. 9, s. 115; 2004, c. 8, s. 152; 2005, c. 1, s. 189.

TITLE IV
*(Repealed).***776.75.** *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 116.

776.76. *(Repealed).*

History: 1997, c. 85, s. 188; 2000, c. 39, s. 98; 2002, c. 9, s. 25; 2002, c. 40, s. 85; 2003, c. 9, s. 116; 2004, c. 21, s. 218; 2005, c. 1, s. 189.

776.77. *(Repealed).*

History: 1997, c. 85, s. 188; 2001, c. 51, s. 79; 2004, c. 21, s. 219; 2005, c. 1, s. 189.

776.77.1. *(Repealed).*

History: 2001, c. 51, s. 80; 2005, c. 1, s. 189.

776.77.1.1. *(Repealed).*

History: 2004, c. 21, s. 220; 2005, c. 1, s. 189.

776.77.2. *(Repealed).*

History: 2001, c. 51, s. 80; 2004, c. 21, s. 221; 2005, c. 1, s. 189.

776.78. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 117; 2005, c. 1, s. 189.

776.78.1. *(Repealed).*

History: 2003, c. 9, s. 118; 2005, c. 1, s. 189.

776.79. *(Repealed).*

History: 1997, c. 85, s. 188; 2000, c. 39, s. 99; 2002, c. 9, s. 26; 2002, c. 40, s. 86; 2003, c. 9, s. 119; 2004, c. 21, s. 222; 2005, c. 1, s. 189.

776.80. *(Repealed).*

History: 1997, c. 85, s. 188; 2000, c. 39, s. 100; 2002, c. 9, s. 27; 2005, c. 1, s. 189.

TITLE V
*(Repealed).***776.81.** *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

776.82. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

776.83. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

776.84. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

776.85. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

776.86. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

776.87. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 117.

TITLE VI
*(Repealed).***776.88.** *(Repealed).*

History: 1997, c. 85, s. 188; 1998, c. 16, s. 251; 2002, c. 40, s. 87; 2005, c. 1, s. 189.

776.89. *(Repealed).*

History: 1997, c. 85, s. 188; 1998, c. 16, s. 187; 2001, c. 51, s. 81; 2001, c. 53, s. 156; 2003, c. 9, s. 120.

776.90. *(Repealed).*

History: 1997, c. 85, s. 188; 1999, c. 83, s. 118; 2003, c. 9, s. 120.

776.91. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 120.

776.92. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 120.

776.93. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 120.

776.94. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 120.

776.95. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 120.

776.96. *(Repealed).*

History: 1997, c. 85, s. 188; 2003, c. 9, s. 120.

776.97. *(Repealed).*

History: 2001, c. 53, s. 157; 2005, c. 1, s. 189.

BOOK VI
RULES APPLICABLE IN CERTAIN
CIRCUMSTANCES

TITLE I
BANKRUPTCY

CHAPTER I
GENERALITIES

777. *(Repealed).*

History: 1972, c. 23, s. 586; 1995, c. 49, s. 177; 1996, c. 39, s. 215.

Rules applicable to a trustee and the estate of a bankrupt.

778. For the purposes of this Part, the trustee is deemed to be the agent of the bankrupt and the estate of the bankrupt is deemed not to be a trust or a succession.

Rule applicable to income from the property of a bankrupt.

The income derived directly or indirectly from the property of the bankrupt is the income of the bankrupt and not of the trustee.

History: 1972, c. 23, s. 587; 1996, c. 39, s. 216.

Corresponding Federal Provision: 128(1)(a), (b), (c) and (2)(a), (b) and (c).

Taxation year of a bankrupt.

779. Except for the purposes of sections 752.0.2, 752.0.7.1 to 752.0.10 and 752.0.11 to 752.0.13.0.1, Division II of Chapter II.1 of Title I of Book V, Chapter V of Title III of Book V, the second paragraph of sections 776.41.14 and 776.41.21, sections 935.4 and 935.15 and Divisions II.8.3, II.11.1, II.11.3 to II.11.10, II.12.1 to II.17.1, II.17.3 to II.20 and II.25 to II.27 of Chapter III.1 of Title III of Book IX, the taxation year of a bankrupt is deemed to begin on the date of the bankruptcy and the current taxation year is deemed, if the bankrupt is an individual other than a succession that is a graduated rate estate, to end on the day immediately before the date of the bankruptcy.

History: 1972, c. 23, s. 588; 1988, c. 4, s. 80; 1990, c. 7, s. 78; 1994, c. 22, s. 276; 1995, c. 1, s. 92; 1995, c. 49, s. 178; 1995, c. 63, s. 93; 1996, c. 39, s. 217; 1997, c. 14, s. 142; 1997, c. 85, s. 189; 1999, c. 83, s. 119; 2000, c. 5, s. 185; 2000, c. 39, s. 101; 2001, c. 51, s. 82; 2001, c. 53, s. 158; 2005, c. 1, s. 190; 2005, c. 38, s. 199; 2006, c. 36, s. 86; 2009, c. 5, s. 332; 2009, c. 15, s. 158; 2011, c. 34, s. 42; 2013, c. 10, s. 66; 2015, c. 21, s. 327; 2017, c. 1, s. 237; 2019, c. 14, s. 271.

Corresponding Federal Provision: 128(1)(d) and (2)(d).

Losses of a discharged bankrupt.

780. Notwithstanding section 782 and paragraphs *b* to *d* of the first paragraph of section 784, where at any time a taxpayer is discharged absolutely from bankruptcy, the following rules apply:

(a) for any taxation year ending after that time, no amount shall be deducted

i. in computing the taxpayer's income under section 336.6 in respect of an unused portion of the total investment expense of the taxpayer, within the meaning of section 336.5, for a taxation year that ended before that time, or

ii. in computing the taxpayer's taxable income under sections 727 to 737 in respect of a loss sustained for a taxation year that ended before that time; and

(b) in computing the taxpayer's tax otherwise payable for any taxation year that ends after that time, no amount shall be deducted under

i. Chapter I.0.2.1 of Title I of Book V in respect of a gift made before the day on which the taxpayer became bankrupt,

ii. section 752.0.18.10 for tuition fees and examination fees paid in respect of a taxation year that ended before that time,

iii. section 752.0.18.15 in respect of interest paid before the day on which the taxpayer became bankrupt, or

iv. section 752.12 in respect of a taxation year that ended before that time.

History: 1972, c. 23, s. 589; 1997, c. 85, s. 190; 2001, c. 7, s. 110; 2001, c. 53, s. 159; 2005, c. 38, s. 200.

Corresponding Federal Provision: 128(1)(g) and (2)(g).

CHAPTER II
RULES APPLICABLE TO CORPORATIONS

Solidary liability of trustee and bankrupt corporation.

781. The trustee is solidarily liable with the bankrupt corporation for the taxes owed by it for any taxation year ending during the bankruptcy, to the extent of the property of the bankrupt in his possession.

History: 1972, c. 23, s. 590; 1995, c. 1, s. 199; 1996, c. 39, s. 218; 1997, c. 3, s. 71.

Corresponding Federal Provision: 128(1)(e).

Bankrupt corporation.

781L. For the purposes of this Part, a corporation is deemed not to be associated with any other corporation in a taxation year of the corporation ending during the period the corporation is a bankrupt.

History: 1989, c. 5, s. 154; 1996, c. 39, s. 219; 1997, c. 3, s. 71.

Corresponding Federal Provision: 128(1)(f).

CHAPTER III RULES APPLICABLE TO INDIVIDUALS

Filing of fiscal return by trustee.

782. The trustee shall, within 90 days from the end of the calendar year for each year during which an individual is in bankruptcy, file with the Minister a fiscal return, in the prescribed form, relating to the income from transactions of the bankruptcy. In this respect, the trustee may, in computing the individual's income for each of those years, claim a deduction under section 336.6 only in respect of an unused portion of the total investment expense of the individual, within the meaning of section 336.5, for any taxation year that ended before the individual was discharged absolutely from bankruptcy, and may not, in computing the individual's taxable income or the tax payable by the individual under this Part, as the case may be, for each of those years, claim any deduction contemplated

(a) in Book IV, except those permitted by section 725.2 or 725.2.2 or sections 725.3 to 725.5 or by Title VI.5 in respect of an amount included in computing income under this section for the year and those permitted by sections 727 to 737 in respect of a loss of the individual for any year that ended before the individual was discharged absolutely from bankruptcy;

(b) in Chapters I.0.1 to I.0.2.0.4 and I.0.3 of Title I of Book V;

(b.0.1) in Chapter I.0.2.1 of Title I of Book V in respect of a gift made by the individual on or after the day the individual became bankrupt;

(b.1) section 752.0.18.10 in respect of tuition fees or examination fees paid in respect of the year;

(b.2) in section 752.0.18.15 in respect of interest paid on or after the day on which the individual became bankrupt;

(c) (*paragraph repealed*);

(d) in Titles IX to XI of Book V.

History: 1972, c. 23, s. 591; 1988, c. 4, s. 81; 1989, c. 5, s. 155; 1993, c. 64, s. 93; 1997, c. 85, s. 191; 2001, c. 7, s. 111; 2001, c. 53, s. 160; 2003, c. 2, s. 248; 2003, c. 9, s. 121; 2005, c. 1, s. 191; 2005, c. 38, s. 201; 2009, c. 5, s. 333; 2012, c. 8, s. 141; 2013, c. 10, s. 67; 2015, c. 24, s. 114; 2019, c. 14, s. 272.

Corresponding Federal Provision: 128(2)(c)(ii) and (iii)(A).

Individual's cumulative gains limit.

782.1. For the purpose of determining an individual's cumulative gains limit within the meaning of subparagraph c of the first paragraph of section 726.6 for a taxation year occurring after the taxation year in which section 782 last

applied in respect of the individual, the rule set forth in the second paragraph applies.

Individual's non-capital loss.

The portion of the individual's non-capital loss for a particular taxation year in which section 782 applied in respect of the individual and any preceding taxation year is deemed not to be a business investment loss to the extent that it does not exceed the lesser of

(a) the amount of the individual's business investment losses for the particular taxation year, and

(b) any portion of the individual's non-capital loss for that particular taxation year that was not deducted in computing his taxable income for any taxation year in which section 782 applied in respect of the individual or any preceding taxation year.

History: 1987, c. 67, s. 161.

Corresponding Federal Provision: 128(2)(i).

Payment of tax by trustee.

783. The trustee is liable to pay any tax exigible on the income of the bankruptcy.

History: 1972, c. 23, s. 592.

Corresponding Federal Provision: 128(2)(e).

Rules applicable for income other than that of bankruptcy.

784. An individual in bankruptcy shall file a separate fiscal return for the individual's income for any taxation year during which the individual was a bankrupt, computed as if

(a) the income required to be reported in respect of the year by the trustee under section 782 was not the income of the individual;

(b) in computing the individual's income for the year, the individual was not entitled to deduct any loss from transactions of the bankruptcy nor any amount under section 336.6;

(c) in computing the individual's taxable income for the year, the individual was not entitled to deduct an amount under section 725.2 or 725.2.2 or sections 725.3 to 725.5 or under Title VI.5 of Book IV in respect of an amount included in computing income under section 782, or an amount under sections 727 to 737; and

(d) in computing the individual's tax payable for the year, the individual was not entitled

i. to deduct an amount under Chapter I.0.2.1 of Title I of Book V in respect of a gift made before the day on which the individual became bankrupt,

ii. to take into account in computing a deduction under section 752.0.18.10 any tuition fees and examination fees paid in respect of a taxation year preceding the year in respect of which the return is filed,

iii. to deduct an amount under section 752.0.18.15 in respect of interest paid before the day on which the individual became bankrupt, or

iv. to deduct an amount under section 752.12.

Payment of tax by the individual in bankruptcy.

An individual referred to in the first paragraph is liable to pay any tax payable under this Part by the individual for that taxation year.

History: 1972, c. 23, s. 593; 1993, c. 64, s. 94; 1997, c. 85, s. 192; 2001, c. 7, s. 112; 2001, c. 53, s. 161; 2003, c. 2, s. 249; 2005, c. 38, s. 202.

Corresponding Federal Provision: 128(2)(f).

Case where trustee continues to act after discharge of bankrupt.

785. Where after the discharge of an individual in bankruptcy, the trustee continues to deal in the estate of the discharged bankrupt or performs acts in the carrying on of the business of such bankrupt, sections 780 and 782 to 784 apply to the current taxation year on the date of such discharge and any subsequent year.

History: 1972, c. 23, s. 594.

Corresponding Federal Provision: 128(2)(h).

TITLE I.1

CHANGE OF RESIDENCE

CHAPTER I

GENERAL RULES

Definitions:

785.0.1. In this chapter,

“excluded right or interest”;

“excluded right or interest” of an individual means

(a) a right of the individual under, or an interest of the individual in a trust governed by,

i. a registered retirement savings plan or a new plan referred to in section 914,

ii. a registered retirement income fund,

iii. a registered education savings plan,

iii.1. a registered disability savings plan,

iii.2. a tax-free savings account,

iv. a deferred profit sharing plan or a revoked plan referred to in section 879,

v. a profit sharing plan,

vi. an employee benefit plan, other than a plan described in subparagraph i or ii of paragraph b,

vi.1. an employee life and health trust,

vii. a plan or arrangement, other than an employee benefit plan, under which the individual has a right to receive in a year remuneration in respect of services rendered by the individual in the year or a prior year,

viii. a pension plan, other than an employee benefit plan,

ix. a retirement compensation arrangement,

x. a foreign retirement arrangement, or

xi. a registered supplementary unemployment benefit plan;

(b) a right of the individual to a benefit under an employee benefit plan, to the extent that the benefit can reasonably be considered to be attributable to services rendered in Canada, that is

i. a plan or arrangement described in paragraph *j* of section 47.16 that would, but for paragraphs *j* and *k* of that section, be a salary deferral arrangement, or

ii. a plan or arrangement that would, but for paragraph *c* of section 47.16R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), be a salary deferral arrangement;

(c) a right of the individual under an agreement referred to in section 48;

(d) a right of the individual to a retiring allowance;

(e) a right of the individual under, or an interest of the individual in, a trust that is

i. an employee trust,

ii. an amateur athlete trust,

iii. a cemetery care trust, or

iv. a trust governed by an eligible funeral arrangement;

(f) a right of the individual to receive an amount under an annuity contract, an income-averaging annuity contract or an income-averaging annuity contract respecting income from artistic activities;

(g) a right of the individual to a benefit under

i. the Act respecting the Québec Pension Plan (chapter R-9) or any similar plan, within the meaning of that Act,

ii. the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9),

iii. (*subparagraph repealed*);

iv. a plan or arrangement instituted by the social security legislation of a country other than Canada or of a state, province or other political subdivision of such a country;

(h) a right of the individual to a benefit described in any of paragraphs *b* to *e* of section 311;

(i) a right of the individual to a payment out of a NISA Fund No. 2 or out of a farm income stabilization account;

(j) an interest of the individual in a personal trust resident in Canada if the interest was never acquired for consideration and did not arise as a consequence of a qualifying disposition by the individual, within the meaning that would be assigned by section 692.5 if that section were read without reference to paragraphs *h* and *i* thereof;

(k) an interest of the individual in a testamentary trust not resident in Canada that is a succession that arose on and as a consequence of an individual's death if

i. the interest was never acquired for consideration, and

ii. the succession has been in existence for no more than 36 months; or

(l) an interest of the individual in a life insurance policy in Canada, except for that part of the policy in respect of which the individual is deemed by section 851.11 to have an interest in a related segregated fund trust relating to that policy;

“reportable property”;

“reportable property” of an individual at a particular time means any property other than

(a) money that is legal tender in Canada and deposits of such money;

(b) property that would be an excluded right or interest of the individual if the definition of “excluded right or interest” were read without reference to paragraphs *c*, *j* and *l* of that definition;

(c) if the individual is not a trust and was not, during the 120-month period that ends at the particular time, resident in Canada for more than 60 months, property described in subparagraph iv of subparagraph *b* of the first paragraph of section 785.2 that is not taxable Canadian property; and

(d) any item of personal-use property the fair market value of which, at the particular time, is less than \$10,000;

“specified immovable”.

“specified immovable” means either an immovable property situated in Québec that is used principally for the purpose of earning or producing gross revenue that is rent, or any interest in or option in respect of the property, whether or not the property exists at that time.

History: 2004, c. 8, s. 153; 2004, c. 21, s. 223; 2005, c. 23, s. 120; 2009, c. 5, s. 334; 2009, c. 15, s. 159; 2011, c. 6, s. 171; 2013, c. 10, s. 68; 2017, c. 1, s. 238.

Corresponding Federal Provision: 128.1(10).

Taxpayer who becomes resident in Canada.

785.1. For the purposes of this Part, where at a particular time a taxpayer becomes resident in Canada, the following rules apply:

(a) if the taxpayer is a corporation and paragraph *a* of subsection 1 of section 128.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) does not apply to the taxpayer in respect of the particular time, the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before the particular time and a new taxation year is deemed to have begun at the particular time and to have ended at the time at which the taxpayer's taxation year (determined for the purposes of the Income Tax Act) that includes the particular time, ended;

(a.1) if the taxpayer is a trust (other than a succession that is a graduated rate estate), the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before the particular time and a new taxation year is deemed to have begun at the particular time;

(a.2) if the taxpayer is a trust that is a succession that is a graduated rate estate and paragraph *a* of subsection 1 of section 128.1 of the Income Tax Act does not apply to the taxpayer in respect of the particular time, the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before the particular time and a new taxation year is deemed to have begun at the particular time;

(b) the taxpayer is deemed to have disposed, at the time, in this section referred to as the “time of disposition”, that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to its fair market value at the time of disposition, other than, if the taxpayer is an individual,

i. property that is a taxable Canadian property, subject to the application of paragraph *b.1*,

ii. property that is described in the inventory of a business carried on by the taxpayer in Canada at the time of disposition,

iii. property that is included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) in respect of a business carried on by the taxpayer in Canada at the time of disposition, and

iv. an excluded right or interest of the taxpayer, other than an interest described in paragraph *k* of the definition of “excluded right or interest” in section 785.0.1;

v. (*subparagraph repealed*);

(b.1) if the taxpayer is an inter vivos trust, other than a trust exempt from tax under Book VIII, the taxpayer is deemed to have disposed, at the time of disposition, of each property that is a specified immovable then owned by the taxpayer for proceeds of disposition equal to its fair market value at the time of disposition;

(c) the taxpayer is deemed to have acquired at the particular time each property deemed by paragraph *b* or *b.1* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property;

(c.1) if the taxpayer is a corporation and a particular amount has been added to the paid-up capital in respect of a class of shares of the corporation's capital stock because of paragraph *b* of subsection 2 of section 128.1 of the Income Tax Act,

i. the corporation is deemed to have paid, immediately before the time of disposition, a dividend on the issued shares of the class equal to the particular amount, and

ii. a dividend is deemed to have been received, immediately before the time of disposition, by each person, other than a person in respect of whom the corporation is a foreign affiliate, who held any of the issued shares of the class equal to the amount obtained by multiplying the amount of the dividend referred to in subparagraph *i* by such proportion as the number of shares of the class held by the person immediately before the time of disposition is of the number of issued shares of the class outstanding immediately before that time; and

(d) where the taxpayer was, immediately before the particular time, a foreign affiliate of another taxpayer that is resident in Canada,

i. the taxpayer is deemed to have been a controlled foreign affiliate, within the meaning assigned by section 572, of the other taxpayer immediately before the particular time, and

ii. the amount prescribed is to be included in the foreign accrual property income of the taxpayer for the taxpayer's taxation year ending immediately before the particular time.

History: 1995, c. 49, s. 179; 1997, c. 3, s. 71; 2001, c. 53, s. 162; 2001, c. 53, s. 260; 2003, c. 2, s. 250; 2004, c. 8, s. 154; 2005, c. 1, s. 192; 2009, c. 5, s. 335; 2013, c. 10, s. 69; 2015, c. 21, s. 328; 2017, c. 1, s. 239; 2019, c. 14, s. 273.

Corresponding Federal Provision: 128.1(1).

Trust deemed resident in Canada.

785.1.1. Paragraph *b* of section 785.1 does not apply, at a time in a trust's taxation year, to the trust if the trust is resident in Canada for the year for the purpose of computing its income.

History: 2015, c. 36, s. 58.

Corresponding Federal Provision: 128.1(1.1).

Taxpayer who ceases to be resident in Canada.

785.2. For the purposes of this Part, where a taxpayer ceases to be resident in Canada at a particular time, the following rules apply:

(a) if the taxpayer is a corporation and paragraph *a* of subsection 4 of section 128.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) does not apply to the taxpayer in respect of the particular time, the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before the particular time and a new taxation year is deemed to have begun at the particular time and to have ended at the time at which the taxpayer's taxation year (determined for the purposes of the Income Tax Act) that includes the particular time, ended;

(a.0.1) if the taxpayer is a trust (other than a succession that is a graduated rate estate), the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before the particular time and a new taxation year is deemed to have begun at the particular time;

(a.0.2) if the taxpayer is a trust that is a succession that is a graduated rate estate and paragraph *a* of subsection 4 of section 128.1 of the Income Tax Act does not apply to the taxpayer in respect of the particular time, the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before the particular time and a new taxation year is deemed to have begun at the particular time;

(a.1) if the taxpayer is an individual, other than a trust, who carries on a business at the particular time, otherwise than through an establishment in Canada, and paragraph *a.1* of subsection 4 of section 128.1 of the Income Tax Act does not apply to the taxpayer in respect of the particular time, the fiscal period of the business that would otherwise have included the particular time is deemed to end immediately before that time and a new fiscal period is deemed to begin at that time;

(b) the taxpayer is deemed to have disposed, at the time, in this subparagraph and subparagraph *d* referred to as the "time of disposition", that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to its fair market value at the time of disposition, which proceeds are deemed to have been received by the taxpayer at the time of disposition, other than, if the taxpayer is an individual,

i. immovable property situated in Canada, a Canadian resource property or a timber resource property,

ii. capital property used in, property included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) in respect of or property included in the

inventory of, a business carried on by the taxpayer through an establishment in Canada at the particular time,

iii. an excluded right or interest of the taxpayer,

iv. if the taxpayer is not a trust and was not, during the 120-month period that ends at the particular time, resident in Canada for more than 60 months, property that was owned by the taxpayer at the time the taxpayer last became resident in Canada or that was acquired by the taxpayer by inheritance or bequest after the taxpayer last became resident in Canada, and

v. any property in respect of which the taxpayer makes an election referred to in subparagraph *a* of the first paragraph of section 785.2.2 for the taxation year that includes the first time, after the particular time, at which the taxpayer becomes resident in Canada;

(*b.1*) despite subparagraph *b*, if the taxpayer is or was at any time, an employee life and health trust, the following rules apply:

i. the taxpayer is deemed

(1) to have disposed, at the time (in this subparagraph referred to as the “time of disposition”) that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to its fair market value at the time of disposition, which proceeds are deemed to have been received by the taxpayer at the time of disposition, and

(2) to have carried on a business at the time of disposition, and

ii. each property of the taxpayer is deemed to be described in the inventory of the business referred to in subparagraph 2 of subparagraph *i* and to have a cost of nil at the time of disposition;

(*c*) the taxpayer is deemed to have reacquired, at the particular time, each property deemed by subparagraph *b* or *b.1* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property;

(*d*) despite subparagraphs *b* and *c*, if the taxpayer is an individual, other than a trust, and the taxpayer makes a valid election under paragraph *d* of subsection 4 of section 128.1 of the Income Tax Act after 19 December 2006 in relation to a property described in subparagraph *i* or *ii* of subparagraph *b*,

i. the taxpayer is deemed to have disposed of the property at the time of disposition for proceeds equal to its fair market value at that time and to have reacquired the property at the particular time at a cost equal to those proceeds,

ii. the taxpayer’s income for the taxation year that includes the particular time is deemed to be the greater of that income determined without reference to this subparagraph *ii* and the lesser of

(1) that income determined without reference to this section, and

(2) that income determined without reference to subparagraph *i*, and

iii. each of the taxpayer’s non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for the taxation year that includes the particular time is deemed to be the lesser of that amount determined without reference to this subparagraph *iii* and the greater of

(1) that amount determined without reference to this section, and

(2) that amount determined without reference to subparagraph *i*;

(*d.1*) if the taxpayer is deemed by subparagraph *b* to have disposed of a share that was acquired before 28 February 2000 under circumstances to which section 49.2 applied, the amount that would be added under paragraph *f* of section 255 in computing the adjusted cost base to the taxpayer of the share as a consequence of the deemed disposition, if Division VI of Chapter II of Title II of Book III were read without reference to section 49.6, shall be deducted from the taxpayer’s proceeds of disposition of the share;

(*e*) (*paragraph repealed*);

(*f*) (*paragraph repealed*).

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *d* of subsection 4 of section 128.1 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1995, c. 49, s. 179; 1997, c. 3, s. 71; 1997, c. 31, s. 85; 2001, c. 53, s. 260; 2003, c. 2, s. 251; 2004, c. 8, s. 155; 2005, c. 1, s. 193; 2009, c. 5, s. 336; 2011, c. 6, s. 172; 2017, c. 1, s. 240; 2019, c. 14, s. 274.

Corresponding Federal Provision: 128.1(4).

Interest on instalments.

785.2.1. For the purposes of sections 1025, 1026, 1026.0.2 to 1026.2, any of the first, second and third paragraphs of section 1038 and any regulations thereunder, where an individual is deemed to have disposed of a property in a taxation year under section 785.2, the individual’s tax payable under this Part for the year is deemed to be the lesser of

(a) the individual's tax payable under this Part for the year, determined without reference to the specified tax consequences for the year, section 313.11 and Chapter II.1 of Title VI of Book III, but with reference to the amount that the individual could deduct from the individual's tax otherwise payable for the year under section 776.41.5 if the individual's eligible spouse for the year were not required to include an amount in computing income for the year under section 313.11; and

(b) the amount that would be determined under paragraph *a* if section 785.2 did not apply to the individual for the year.

History: 2004, c. 8, s. 156; 2009, c. 5, s. 337; 2015, c. 36, s. 59.

Corresponding Federal Provision: 128.1(5).

Former resident back in Canada.

785.2.2. Where an individual, other than a trust, becomes resident in Canada at a particular time in a taxation year and the time, in this section referred to as the "emigration time", before the particular time, at which the individual last ceased to be resident in Canada was after 1 October 1996, the following rules apply:

(a) subject to subparagraph *b*, subparagraphs *b* and *c* of the first paragraph of section 785.2 do not apply to the individual's cessation of residence at the emigration time in respect of all properties that were taxable Canadian properties of the individual throughout the period that began at the emigration time and that ends at the particular time, if the individual makes, in relation to the individual's cessation of residence, a valid election under paragraph *a* of subsection 6 of section 128.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of all the properties;

(b) where, if a property in respect of which an election referred to in subparagraph *a* is made had been acquired by the individual at the emigration time at a cost equal to its fair market value at the emigration time and had been disposed of by the individual immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, the application of section 238.4 would reduce the amount that would, but for that section and this section, be the individual's loss from the disposition, the individual is deemed

i. to have disposed of the property at the time of disposition, within the meaning assigned by subparagraph *b* of the first paragraph of section 785.2, in respect of the emigration time for proceeds of disposition equal to the aggregate of

(1) the adjusted cost base to the individual of the property immediately before the time of disposition, and

(2) the amount, if any, by which that reduction exceeds the lesser of the adjusted cost base to the individual of the property immediately before the time of disposition and the particular amount, if any, that the individual specifies in

respect of the property, in accordance with subclause II of clause B of subparagraph *i* of paragraph *b* of subsection 6 of section 128.1 of the Income Tax Act, in the election referred to in subparagraph *a* for the purposes of that paragraph *b*, and

ii. to have reacquired the property at the emigration time at a cost equal to the amount, if any, by which the amount determined under subparagraph 1 of subparagraph *i* exceeds the lesser of that reduction and the particular amount referred to in subparagraph 2 of that subparagraph *i*;

(c) despite paragraph *c* of section 785.1 and subparagraph *b* of the first paragraph of section 785.2, if the individual makes a valid election under paragraph *c* of subsection 6 of section 128.1 of the Income Tax Act after 19 December 2006 in relation to each property that the individual owned throughout the period that began at the emigration time and that ends at the particular time and that is deemed by paragraph *b* of section 785.1 to have been disposed of because the individual became resident in Canada, the individual's proceeds of disposition at the time of disposition, within the meaning assigned by subparagraph *b* of the first paragraph of section 785.2, and the individual's cost of acquiring the property at the particular time, are deemed to be those proceeds and that cost, determined without reference to this subparagraph, minus the least of

i. the amount that would, but for this subparagraph *c*, have been the individual's gain from the disposition of the property deemed by subparagraph *b* of the first paragraph of section 785.2 to have occurred,

ii. the fair market value of the property at the particular time, and

iii. the amount that the individual specifies, in accordance with subparagraph *iii* of paragraph *c* of subsection 6 of section 128.1 of the Income Tax Act, in the election for the purposes of that paragraph *c*; and

(d) notwithstanding sections 1010 to 1011, any assessment of tax that is payable under this Part by the individual for a taxation year that is before the year that includes the particular time and that is not before the year that includes the emigration time shall be made by the Minister as is necessary to give effect to an election referred to in this paragraph, except that no such assessment shall affect the computation of

i. interest payable under this Part to or by a taxpayer in respect of any period that is before the day on which the taxpayer's fiscal return for the taxation year that includes the particular time is filed, or

ii. any penalty payable under this Part.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 6 of section 128.1 of the

Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2004, c. 8, s. 156; 2009, c. 5, s. 338.

Corresponding Federal Provision: 128.1(6).

Deemed taxable Canadian property.

785.2.2.1. For the purposes of subparagraph *a* of the first paragraph of section 785.2.2, a property is deemed to be a taxable Canadian property of an individual throughout the period that began at the emigration time and that ends at the particular time if

(a) the emigration time is before 5 March 2010; and

(b) the property was a taxable Canadian property of the individual on 4 March 2010.

History: 2011, c. 6, s. 173.

Corresponding Federal Provision: 128.1(6.1).

Returning trust beneficiary.

785.2.3. If an individual, other than a trust, becomes resident in Canada at a particular time in a taxation year, owns at the particular time a property that the individual last acquired on a trust distribution to which section 688 would, but for section 692, have applied and at a time (in this section referred to as the “distribution time”) that was after 1 October 1996 and before the particular time, and was a beneficiary under the trust at the last time, before the particular time, at which the individual ceased to be resident in Canada, the following rules apply:

(a) subject to subparagraphs *b* and *c*, section 688.1 does not apply to the distribution in relation to all properties acquired by the individual at the distribution time that were taxable Canadian properties of the individual throughout the period that began at the distribution time and that ends at the particular time, if the individual and the trust make, in relation to the distribution, a valid election under paragraph *d* of subsection 7 of section 128.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of all the properties;

(b) if the application of section 238.4 would reduce the amount that would, but for that section and this section, have been the individual’s loss from the disposition of a property in respect of which an election referred to in subparagraph *a* is made, subparagraph *c* applies in respect of the individual, the trust and the property, if the individual

i. had been resident in Canada at the distribution time,

ii. had acquired the property at the distribution time at a cost equal to its fair market value at that time,

iii. had ceased to be resident in Canada immediately after the distribution time, and

iv. had, immediately before the particular time, disposed of the property for proceeds of disposition equal to its fair market value immediately before that time;

(c) if this subparagraph applies in respect of an individual, a trust and a property, the following rules apply:

i. despite subparagraph *a* of the first paragraph of section 688.1, the trust is deemed to have disposed of the property at the distribution time for proceeds of disposition equal to the aggregate of

(1) the cost amount to the trust of the property immediately before the distribution time, and

(2) the amount, if any, by which the reduction under section 238.4 described in subparagraph *b* exceeds the lesser of the cost amount to the trust of the property immediately before the distribution time and the particular amount, if any, which the individual and the trust specify in respect of the property, in accordance with subclause II of clause B of subparagraph *i* of paragraph *f* of subsection 7 of section 128.1 of the Income Tax Act, in the election referred to in subparagraph *a* for the purposes of that paragraph *f*, and

ii. despite subparagraph *b* of the first paragraph of section 688.1, the individual is deemed to have acquired the property at the distribution time at a cost equal to the amount, if any, by which the amount otherwise determined under subparagraph *b* of the first paragraph of section 688 exceeds the lesser of the reduction under section 238.4 described in subparagraph *b* and the particular amount referred to in subparagraph 2 of subparagraph *i*;

(d) despite subparagraphs *a* and *b* of the first paragraph of section 688.1, if the individual and the trust make a valid election under paragraph *g* of subsection 7 of section 128.1 of the Income Tax Act after 19 December 2006 in respect of each property that the individual owned throughout the period that began at the distribution time and that ends at the particular time and that is deemed by paragraph *b* of section 785.1 to have been disposed of because the individual became resident in Canada, the trust’s proceeds of disposition of the property under subparagraph *a* of the first paragraph of section 688.1 at the distribution time, and the individual’s cost of acquiring the property at the particular time, are deemed to be those proceeds and that cost, determined without reference to this subparagraph, minus the least of

i. the amount that would, but for this subparagraph *d*, have been the trust’s gain from the disposition of the property deemed by subparagraph *a* of the first paragraph of section 688.1 to have occurred,

ii. the fair market value of the property at the particular time, and

iii. the amount that the individual and the trust specify, in accordance with subparagraph iii of paragraph *g* of subsection 7 of section 128.1 of the Income Tax Act, in the election for the purposes of that paragraph *g*;

(*e*) if the trust ceases to exist before the individual's filing-due date for the individual's taxation year that includes the particular time and if, in accordance with subparagraph i of paragraph *h* of subsection 7 of section 128.1 of the Income Tax Act, the individual makes an election or specifies an amount, after 19 December 2006, in accordance with that subsection 7, the individual and the trust are solidarily liable for any amount payable under this Part by the trust as a result of the election or specification; and

(*f*) despite sections 1010 to 1011, such assessment of tax payable under this Part by the trust or the individual for any year that is before the year that includes the particular time and that is not before the year that includes the distribution time shall be made by the Minister as is necessary to give effect to an election referred to in this paragraph, except that such assessments are not to affect the computation of

i. interest payable under this Part to or by the trust or the individual in respect of any period that is before the individual's filing-due date for the taxation year that includes the particular time, or

ii. any penalty payable under this Part.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 7 of section 128.1 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2004, c. 8, s. 156; 2009, c. 5, s. 339.

Corresponding Federal Provision: 128.1(7).

Post-emigration loss.

785.2.4. Except for the purposes of subparagraph *c* of the first paragraph of section 785.2, if an individual, other than a trust, is deemed under subparagraph *b* of that paragraph to have disposed of a capital property at a particular time after 1 October 1996, disposed of the capital property at a later time at which the capital property was a taxable Canadian property of the individual, and makes a valid election under subsection 8 of section 128.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the capital property, there must be deducted from the individual's proceeds of disposition of the capital property at the particular time, and added to the individual's proceeds of disposition of the capital property at the later time, an amount equal to the least of

(*a*) the amount specified in the election in respect of the capital property;

(*b*) the amount that would, but for the election, be the individual's gain from the disposition of the capital property at the particular time; and

(*c*) the amount that would be the individual's loss from the disposition of the capital property at the later time, if the loss were determined having reference to every other provision of this Part including sections 238.4 and 738 to 745, but without reference to the election.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 8 of section 128.1 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2004, c. 8, s. 156; 2009, c. 5, s. 340.

Corresponding Federal Provision: 128.1(8).

Information reporting.

785.2.5. An individual who ceases at a particular time in a taxation year to be resident in Canada, and who owns immediately after the particular time one or more reportable properties the fair market value of which at that time is greater than \$25,000, shall file with the Minister in prescribed form, on or before the individual's filing-due date for the year, a list of all the reportable properties that the individual owned immediately after the particular time.

History: 2004, c. 8, s. 156.

Corresponding Federal Provision: 128.1(9).

Inter vivos trust – notice to the Minister.

785.2.6. An inter vivos trust that is deemed under paragraph *b.1* of section 785.1 to have disposed of each property that is a specified immovable because it became resident in Canada and that proposes to dispose of such a property shall, before the disposition, send to the Minister a notice in the prescribed form containing prescribed information.

History: 2013, c. 10, s. 70.

Minister's certificate.

785.2.7. The Minister shall, upon receipt of the notice provided for in section 785.2.6 and after ascertaining that the tax payable by an inter vivos trust referred to in that section resulting from the deemed disposition referred to in paragraph *b.1* of section 785.1 has been paid or that a surety acceptable to the Minister in that respect to guarantee the payment of that tax has been furnished, issue without delay a certificate in prescribed form attesting those facts to the trust and the proposed purchaser.

History: 2013, c. 10, s. 70.

Purchaser's responsibility.

785.2.3. Where a person (in this section referred to as the “purchaser”) acquires from an inter vivos trust (in this section referred to as the “vendor”) a property that is a specified immovable that the vendor is deemed to have disposed of in a taxation year under paragraph *b.1* of section 785.1 because the vendor became resident in Canada, the following rules apply:

(a) the purchaser shall pay to the Minister on behalf of the vendor, as or on account of tax payable by the vendor under this Part for the year, an amount equal to 12.875% of the purchase price of the property;

(b) the purchaser is authorized to deduct from any amount the purchaser pays to the vendor or to withhold from any amount credited by the purchaser to the vendor or to otherwise recover from the vendor the amount paid by the purchaser under subparagraph *a*; and

(c) the purchaser shall, within 30 days after the end of the month in which the purchaser acquires the property, pay to the Minister the amount the purchaser is required to pay under subparagraph *a*.

Restriction.

The first paragraph does not apply to a purchaser if

(a) a certificate has been issued to the purchaser by the Minister under section 785.2.7 in respect of the property; or

(b) after reasonable inquiry, the purchaser had no reason to believe that the vendor was deemed to have disposed of the property in the year under paragraph *b.1* of section 785.1.

History: 2013, c. 10, s. 70; 2015, c. 21, s. 329.

CHAPTER II CROSS-BORDER MERGERS

Cross-border mergers

785.3. Where a corporation formed at a particular time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, two or more corporations, each of which is referred to in this section as a “predecessor”, is

(a) resident in Canada at the particular time, a predecessor that was not immediately before the particular time resident in Canada is deemed to have become resident in Canada immediately before that time; or

(b) not resident in Canada at the particular time, a predecessor that was immediately before that time resident in Canada is deemed to have ceased to be resident in Canada immediately before that time.

Exception.

The first paragraph does not apply to reorganizations occurring because of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or because of the distribution of the property to the other corporation on the winding-up of the corporation.

History: 1995, c. 49, s. 179; 1997, c. 3, s. 71.

Corresponding Federal Provision: 128.2(1), (2) and (3).

CHAPTER III REPLACED SECURITIES

Exchange of securities.

785.3.1. For the purposes of sections 772.9.2 to 772.9.4, subparagraph iv of subparagraph *b* of the first paragraph of section 785.2 and sections 785.2.2 to 785.2.4, 1033.2 and 1033.7, if, in a transaction to which any of sections 301 to 301.2, 537, 540.6 and 541 to 555.4 apply, a person acquires a share (in this section referred to as the “new share”) in exchange for another share or an investment in a SIFT wind-up entity (in this section referred to as the “old security”), the person is deemed not to have disposed of the old security, and the new share is deemed to be the same security as the old security.

History: 2004, c. 8, s. 157; 2005, c. 23, s. 121; 2010, c. 25, s. 90; 2015, c. 24, s. 115.

Corresponding Federal Provision: 128.3.

TITLE 1.2 MUTUAL FUND REORGANIZATIONS

Definitions:

785.4. In this Title,

“*first post-exchange year*”;

“*first post-exchange year*” of a fund in respect of a qualifying exchange means the fund’s taxation year that begins immediately after the acquisition time;

qualifying exchange;

“*qualifying exchange*” means a transfer at any time (in this Title referred to as the “*transfer time*”) if

(a) the transfer is a transfer of all or substantially all of the property (including an exchange of a unit of a mutual fund trust for another unit of that trust) of

i. a mutual fund corporation (other than a SIFT wind-up corporation) to one or more mutual fund trusts, or

ii. a particular mutual fund trust to another mutual fund trust;

(b) all or substantially all of the shares issued by the mutual fund corporation referred to in subparagraph i of paragraph *a* or the particular mutual fund trust referred to in subparagraph ii of paragraph *a* (in this Title referred to as the

“transferor” or the “funds”) and outstanding immediately before the transfer time are within 60 days after the transfer time disposed of to the transferor;

(c) no person disposing of shares of the transferor to the transferor within that 60-day period (otherwise than pursuant to the exercise of a statutory right of dissent) receives any consideration for the shares other than units of one or more mutual fund trusts referred to in subparagraph i of paragraph *a* or the other mutual fund trust referred to in subparagraph ii of paragraph *a* (in this Title referred to as the “transferee” or the “funds”);

(d) if property of the transferor has been transferred to more than one transferee,

i. all shares of each class of shares, that is recognized under securities legislation as or as part of an investment fund, of the transferor are disposed of to the transferor within 60 days after the transfer time, and

ii. the units received in consideration for a share of a class of shares, that is recognized under securities legislation as or as part of an investment fund, of the transferor are units of the transferee to which all or substantially all of the assets that were allocated to that investment fund immediately before the transfer time were transferred; and

(e) the funds make a valid election under paragraph *e* of the definition of “qualifying exchange” in subsection 1 of section 132.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer;

“share”.

“share” means a share of the capital stock of a mutual fund corporation and a unit of a mutual fund trust.

Filing requirements.

Where this Title applies in respect of a transfer, the prescribed form along with a copy of every document sent to the Minister of National Revenue in respect of the transfer, in connection with the election referred to in paragraph *e* of the definition of “qualifying exchange” in the first paragraph, must be sent to the Minister on or before the last day of the six-month period following the end of the transferor’s taxation year that includes the due date of the election in respect of the transfer, within the meaning of subsection 6 of section 132.2 of the Income Tax Act, or, if it is later, the last day of the two-month period following the end of such a taxation year of the transferee.

History: 1996, c. 39, s. 220; 1997, c. 85, s. 193; 2000, c. 5, s. 293; 2001, c. 7, s. 113; 2010, c. 25, s. 91; 2015, c. 36, s. 60; 2020, c. 16, s. 118.

Corresponding Federal Provision: 132.2(1).

Timing.

785.4.1. In respect of a qualifying exchange, a time referred to in the following list immediately follows the time that precedes it in the list:

- (a) the transfer time;
- (b) the first intervening time;
- (c) the acquisition time;
- (d) the beginning of the funds’ first post-exchange years;
- (e) the depreciables disposition time;
- (f) the second intervening time; and
- (g) the depreciables acquisition time.

History: 2015, c. 36, s. 61.

Corresponding Federal Provision: 132.2(2).

Rules applicable.

785.5. The following rules apply in respect of a qualifying exchange:

(a) each property of a fund (other than property disposed of by the transferor to a transferee at the transfer time and depreciable property) is deemed to have been disposed of, and to have been reacquired by the fund, at the first intervening time, for an amount equal to the lesser of

i. the fair market value of the property at the transfer time, and

ii. the greater of

(1) its cost amount, and

(2) the amount that the fund designates in respect of the property in a notification sent to the Minister and accompanied by the prescribed form relating to the qualifying exchange filed pursuant to the second paragraph of section 785.4;

(a.1) in respect of each property transferred by the transferor to a transferee, including an exchange of a unit of a transferee for another unit of that transferee, the transferor is deemed to have disposed of the property to the transferee, and to have received units of the transferee as consideration for the disposition of the property, at the transfer time;

(b) subject to paragraph *k*, the last taxation years of the funds that began before the transfer time are deemed to have ended at the acquisition time, and their first post-exchange years are deemed to have begun immediately after those last taxation years ended;

- (c) each depreciable property of a fund (other than property to which section 785.5.2 applies and property to which paragraph *d* would, but for this paragraph, apply) is deemed to have been disposed of, and to have been reacquired, by the fund at the second intervening time, for an amount equal to the lesser of
- i. the fair market value of the property at the depreciables disposition time, and
 - ii. the greater of
 - (1) the lesser of the property's capital cost and its cost amount to the disposing fund at the depreciables disposition time, and
 - (2) the amount that the fund designates in respect of the property in a notification sent to the Minister and accompanied by the prescribed form relating to the qualifying exchange filed pursuant to the second paragraph of section 785.4;
- (d) where at the second intervening time the undepreciated capital cost to a fund of depreciable property of a prescribed class exceeds the fair market value of all the property of that class, the excess is to be deducted in computing the fund's income for the taxation year that includes the transfer time and is deemed to have been allowed as depreciation in respect of property of that class under paragraph a of section 130;
- (e) the transferor's cost of particular property received by the transferor from a transferee as consideration for the disposition of property is deemed to be
- i. nil, where the particular property is a unit of the transferee, and
 - ii. the particular property's fair market value at the transfer time, in any other case;
- (f) the transferor's proceeds of disposition of any units of a transferee that were disposed of by the transferor at a particular time that is within 60 days after the transfer time in exchange for shares of the transferor are deemed to be equal to the cost amount of the units to the transferor immediately before the particular time;
- (g) where, at a particular time that is within 60 days after the transfer time, a taxpayer disposes of shares of the transferor to the transferor in exchange for units of a transferee,
- i. the taxpayer's proceeds of disposition of the shares and the cost to the taxpayer of the units are deemed to be equal to the cost amount to the taxpayer of the shares immediately before the particular time,
 - ii. for the purpose of applying sections 1097, 1102 and 1102.1 in respect of the disposition, the shares are deemed to be excluded property of the taxpayer,
 - iii. where all of the taxpayer's shares of the transferor have been so disposed of, for the purpose of applying sections 251.1 to 251.7 in respect of the taxpayer after that disposition, the transferee is deemed to be the same entity as the transferor, and
 - iv. where the taxpayer is at the particular time affiliated with the transferor or the transferee, those units are deemed not to be identical to the other units of the transferee, and
 - (1) if the taxpayer is the transferee, and the units cease to exist when the taxpayer acquires them (or when the taxpayer would but for that cessation have acquired them), the taxpayer is deemed to have acquired those units at the particular time and to have disposed of those units immediately after the particular time for proceeds of disposition equal to the cost amount to the taxpayer of those units at the particular time, or
 - (2) if subparagraph 1 does not apply, for the purpose of computing any gain or loss of the taxpayer from the taxpayer's first disposition, after the particular time, of each of those units, where that disposition is a renunciation or surrender of the unit by the taxpayer for no consideration, and is not in favour of any person other than the transferee, the taxpayer's proceeds of disposition of that unit are deemed to be equal to that unit's cost amount to the taxpayer immediately before that disposition, or, in any other case, the taxpayer's proceeds of disposition of that unit are deemed to be equal to the greater of that unit's fair market value and its cost amount to the taxpayer immediately before that disposition;
- (h) where a share to which paragraph *g* applies would, but for this paragraph, cease to be a qualified investment (within the meaning assigned by subsection 1 of any of sections 146, 146.1, 146.3, 146.4 and 207.01 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or by section 204 of that Act) because of the qualifying exchange, the share is deemed to be a qualified investment until the earlier of the day that is 60 days after the day that includes the transfer time and the time at which it is disposed of in accordance with paragraph *g*;
- (i) no amount in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss of a fund for a taxation year that begins before the transfer time is deductible in computing the taxable income of the funds for a taxation year that begins after the transfer time;
- (j) where the transferor is a mutual fund trust, for the purposes of sections 1121.1, 1121.2 and 1121.4 to 1121.6, the transferee is deemed after the transfer time to be the same mutual fund trust as, and a continuation of, the transferor;

(k) where the transferor is a mutual fund corporation, the following rules apply, and nothing in this paragraph affects the computation of any amount determined under this Part:

i. for the purposes of section 1118, the transferor is deemed in respect of any share disposed of in accordance with paragraph g to be a mutual fund corporation at the time of the disposition, and

ii. (*subparagraph repealed*);

iii. for the purposes of section 1116, a dividend that becomes payable at a particular time after the acquisition time but within the 60-day period commencing immediately after the transfer time, and is paid before the end of that period, by the transferor to taxpayers that held shares of a class of shares of the capital stock of the transferor, that was recognized under securities legislation as or as part of an investment fund, immediately before the transfer time is deemed to have become payable at the first intervening time if the transferor made a valid election under subparagraph iii of paragraph l of subsection 3 of section 132.2 of the Income Tax Act in respect of the full amount of the dividend; and

(l) subject to subparagraph i of paragraph k, the transferor is, despite sections 1117, 1117.0.1 and 1120, deemed to be neither a mutual fund corporation nor a mutual fund trust for a taxation year that begins after the transfer time.

History: 1996, c. 39, s. 220; 1997, c. 85, s. 194; 2001, c. 7, s. 114; 2001, c. 53, s. 163; 2009, c. 5, s. 341; 2009, c. 15, s. 160; 2015, c. 36, s. 62; 2020, c. 16, s. 119.

Corresponding Federal Provision: 132.2(3).

Non-depreciable property.

785.5.1. Where a transferor transfers a property, other than a depreciable property, to a transferee in a qualifying exchange, the following rules apply:

(a) the transferee is deemed to have acquired the property at the acquisition time and not to have acquired the property at the transfer time;

(b) the transferor's proceeds of disposition of the property and the transferee's cost of the property are deemed to be equal to the amount described in the first paragraph of section 785.6; and

(c) where the property is a unit of the transferee and the unit ceases to exist at the time when the transferee acquires it, such time being that when the transferee would but for that cessation have acquired it, paragraphs a and b do not apply in respect of the transferee.

History: 2015, c. 36, s. 63; 2020, c. 16, s. 120.

Corresponding Federal Provision: 132.2(4).

Depreciable property.

785.5.2. Where a transferor transfers a depreciable property to a transferee in a qualifying exchange, the following rules apply:

(a) the transferor is deemed to have disposed of the property at the depreciables disposition time, and not to have disposed of the property at the transfer time;

(b) the transferee is deemed to have acquired the property at the depreciables acquisition time, and not to have acquired the property at the transfer time;

(c) the transferor's proceeds of disposition of the property and the transferee's cost of the property are deemed to be equal to the amount described in the first paragraph of section 785.6; and

(d) where the property's capital cost to the transferor exceeds the transferor's proceeds of disposition of the property determined in accordance with the first paragraph of section 785.6, for the purposes of sections 93 to 104, sections 130 and 130.1 and any regulations made under paragraph a of section 130 or section 130.1,

i. the property's capital cost to the transferee is deemed to be equal to the amount that was its capital cost to the transferor, and

ii. the excess is deemed to have been allowed to the transferee in respect of the property as depreciation under paragraph a of section 130 in computing the transferee's income for a taxation year that ended before the transfer time.

History: 2015, c. 36, s. 63.

Corresponding Federal Provision: 132.2(5).

Proceeds of disposition and cost of the property.

785.6. The amount to which paragraph b of section 785.5.1 and paragraph c of section 785.5.2 refer is,

(a) in the case of a property referred to in section 785.5.1, the amount established as proceeds of disposition of the property to the transferor and the cost of the property to the transferee under paragraph b of subsection 4 of section 132.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), except where subparagraph b applies;

(a.1) in the case of a property referred to in section 785.5.2, the amount established as proceeds of disposition of the property to the transferor and the cost of the property to the transferee under paragraph c of subsection 5 of section 132.2 of the Income Tax Act, except where subparagraph b applies; or

(b) subject to the third paragraph and if the conditions set out in the second paragraph are met for the transferor and for the transferee, the lesser of

i. the fair market value of the property at the transfer time, and

ii. the greatest of

(1) the cost amount to the transferor of the property at the transfer time or, where the property is depreciable property, the lesser of its capital cost and its cost amount to the transferor immediately before the depreciables disposition time,

(2) the amount that the transferor and the transferee agree on jointly in respect of the property in the prescribed form relating to the qualifying exchange filed pursuant to the second paragraph of section 785.4, and

(3) the fair market value at the transfer time of the consideration, other than units of the transferee, received by the transferor for the disposition of the property.

Applicability.

The conditions referred to in subparagraph *b* of the first paragraph are as follows:

(a) in the case of an individual, the individual must be resident in Québec at the end of the individual's taxation year in which the transfer is made and, if the second paragraph of section 22 applies to the individual for that year, the proportion applicable in respect of the individual in that second paragraph for that year must be not less than 9/10;

(b) in the case of a corporation, the proportion that the business carried on by the corporation in Québec is of the aggregate of the business carried on in Canada or in Québec and elsewhere established by the regulations made under section 771 for its taxation year in which the transfer is made, must be not less than 9/10.

Exception.

However, subparagraph *b* of the first paragraph does not apply in respect of property unless all or substantially all of the difference between the amount that would, but for subparagraph *b*, be referred to in respect of the property in subparagraph *a* or *a.1* of the first paragraph and the amount determined in its respect in that subparagraph *b*, is justified by a difference between the cost amount of the property to the transferor, immediately before the disposition, for the purposes of Part I of the Income Tax Act and the cost amount, at that time, for the purposes of this Part, or by another reason considered by the Minister to be acceptable in the circumstances.

Order of disposition of certain properties.

Where two or more depreciable properties of a prescribed class are disposed of by the transferor to the transferee in the same qualifying exchange, subparagraph *b* of the first paragraph applies as if each property so disposed of had been separately disposed of in the order designated by the transferor in the prescribed form relating to the qualifying exchange filed pursuant to the second paragraph of section 785.4 or, if the transferor does not so designate any such order, in the order designated by the Minister.

History: 1997, c. 85, s. 195; 2001, c. 7, s. 115; 2002, c. 40, s. 88; 2009, c. 5, s. 342; 2015, c. 36, s. 64; 2020, c. 16, s. 121.

Corresponding Federal Provision: 132.2(4) and (5).

TITLE II PATRONAGE DIVIDENDS

Deduction of patronage dividends granted to customers.

786. A taxpayer may deduct, according to the conditions provided in this Title, in computing his income for a taxation year, the patronage dividends which he makes in the year or within twelve months thereafter to all his customers of the year; he may also deduct patronage dividends which he has made in the year or in the twelve months thereafter to his customers of a previous year if the deduction was not permitted from his income for such previous year.

History: 1972, c. 23, s. 595.

Corresponding Federal Provision: 135(1).

Restriction.

786.1. Section 786 applies to a payment made by a taxpayer to a customer with whom the taxpayer does not deal at arm's length only if

(a) the taxpayer is a cooperative described in section 119.2R2 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) or a savings and credit union; or

(b) the payment is a prescribed payment.

History: 2005, c. 38, s. 203; 2009, c. 15, s. 161.

Corresponding Federal Provision: 135(1.1).

Condition respecting deductible patronage dividends.

787. A patronage dividend is deductible if the prospect of a right to such patronage dividend was held forth to the taxpayer's customers for the year.

History: 1972, c. 23, s. 596.

Corresponding Federal Provision: 135(4) "allocation in proportion to patronage" (b).

Condition respecting deductible patronage dividends.

788. The condition contemplated in section 787 shall be fulfilled if:

(a) it is provided for in the statute under which the taxpayer was incorporated or registered, its charter, articles of association or by-laws or contract with the customer, that amounts might be credited to the customer who is a member or non-member as a patronage dividend;

(b) the taxpayer has held forth that prospect to customers who are members or non-members by an advertisement in a form satisfactory to the Minister and published before the beginning of the year or before any other date prescribed for his kind of business, in one or more newspapers in general circulation in the greater part of the area where the taxpayer carries on business.

Rule.

The taxpayer must send the Minister copies of such newspapers within the first 30 days of the taxation year or within the 30 days following the prescribed date.

History: 1972, c. 23, s. 597; 1997, c. 3, s. 71; 2001, c. 53, s. 164.

Corresponding Federal Provision: 135(5).

Computation of patronage dividends.

789. A patronage dividend must be computed at the same rate for all customers, taking into account the differences for various categories and qualities of goods furnished to the taxpayer.

Computation of patronage dividends.

It must also be computed in proportion to the quality, the quantity or the value of goods which the taxpayer has acquired from the customer or on his behalf, has marketed for the customer or has sold to him or the services which the taxpayer has rendered to the customer.

History: 1972, c. 23, s. 598.

Corresponding Federal Provision: 135(4) “allocation in proportion to patronage”.

Patronage dividend.

790. For the purposes of this Title, where a person has sold or delivered a quantity of goods to a marketing board established by a law of Canada or of a province, the marketing board has sold or delivered the same quantity of goods of the same class or quality to a taxpayer of which the person is a member, and the taxpayer has credited that person with an amount based on the quantity of goods sold or delivered to it by the marketing board, such person is deemed to have sold or delivered that quantity of goods to the taxpayer, and the taxpayer is deemed to have acquired it from that person.

History: 1975, c. 22, s. 213.

Corresponding Federal Provision: 135(8).

Form of patronage dividends.

791. A patronage dividend may be in the form of a certificate of indebtedness or a share issued by the taxpayer or by a corporation of which the taxpayer is a subsidiary wholly-owned corporation.

Amount that must have been disbursed.

In such case, however, the taxpayer or that corporation must have disbursed in the year or within 12 months thereafter an amount of money equal to the aggregate of the principal amount of all certificates of indebtedness or shares issued in the course of purchasing or redeeming certificates of indebtedness or shares of the taxpayer or of that corporation previously issued.

Form of patronage dividends.

A patronage dividend may also be in the form of a payment applied to a loan made by the taxpayer to a member or an amount applied to the obligation of the member to make a loan to the taxpayer, or on account of payment for shares issued to a member, either at the request of the member or pursuant to a statute or by-law of the taxpayer.

Payment.

Every payment which under section 314 must be included in computing the income of a member constitutes a patronage dividend.

History: 1972, c. 23, s. 599; 1997, c. 3, s. 71.

Corresponding Federal Provision: 135(4) « payment ».

Different rate.

792. (1) Where a patronage dividend is computed at a different rate in the case of persons qualifying as members, the amount that may be deducted under section 786 is equal to the lesser of the aggregate of patronage dividends made by the taxpayer and mentioned in section 786 and the aggregate of the part of the income of the taxpayer for the year attributable to business done with members and such patronage dividends made to non-member customers of the year.

Person qualified as member.

(2) A person qualifies as a member, for the purposes of this Title, if, as a member or shareholder, he is entitled to full voting rights in the conduct of the affairs of a taxpayer, being a corporation, or of a corporation of which the taxpayer is a subsidiary wholly-owned corporation.

History: 1972, c. 23, s. 600; 1989, c. 77, s. 88; 1997, c. 3, s. 71.

Corresponding Federal Provision: 135(2) and (4) « member ».

Undeducted portion of patronage dividend.

792.1. Where, in a taxation year ending after 31 December 1985, all or a portion of a patronage dividend made by a taxpayer to his customers who are members is not deductible in computing his income for the year because of the application of subsection 1 of section 792, in this section referred to as the "undeducted portion", the taxpayer may deduct, in computing his income for a subsequent taxation year, an amount equal to the lesser of

(a) the undeducted portion, except to the extent that that portion was deducted in computing his income for any preceding taxation year; and

(b) the amount by which the taxpayer's income for the subsequent taxation year, computed without reference to this section, attributable to business done with his customers of that year who are members exceeds the amount deducted in computing his income for the subsequent taxation year by virtue of section 786 in respect of patronage dividends made by him to his customers of that year who are members.

History: 1989, c. 77, s. 89.

Corresponding Federal Provision: 135(2.1).

Computing income attributable to business with members.

793. The taxpayer's income attributable to business done with members is computed, for the purposes of section 792, by establishing the portion of the taxpayer's income, before any deduction permitted by this Title, that the proportion that the value of the business done in the year with the members is to that made with all customers. Such business includes the value of the goods or products which the taxpayer has acquired during the year from his customers or has marketed on behalf of his customers or has sold to them or the services which he has rendered to them.

History: 1972, c. 23, s. 601.

Corresponding Federal Provision: 135(4) "income of the taxpayer attributable to business done with members".

794. (Repealed).

History: 1972, c. 23, s. 602; 1973, c. 17, s. 92; 1979, c. 38, s. 24; 1986, c. 15, s. 128.

Patronage dividends to be included in income of customer.

795. A taxpayer must include in computing his income for the taxation year every patronage dividend which he receives during that year. He must also include in his income the principal amount of a certificate of indebtedness or of a share issued to him as a patronage dividend for the year in which he received it and not in the year when the debt was discharged or the share redeemed.

History: 1972, c. 23, s. 603.

Corresponding Federal Provision: 135(7).

Exception.

796. A taxpayer is not however bound to include in computing his income a patronage dividend respecting property or services, other than a patronage dividend computed in relation to the volume of work carried on by the taxpayer for his cooperative or for a corporation of which his cooperative is a shareholder, the cost of which he may not deduct in computing his income from business or property.

History: 1972, c. 23, s. 604; 1990, c. 7, s. 79; 1997, c. 3, s. 71.

Corresponding Federal Provision: 135(4) "consumer goods or services".

TITLE III**SAVINGS AND CREDIT UNIONS****Savings and credit union.**

797. (1) A savings and credit union, hereinafter called a "credit union", is a corporation, association or federation constituted, organized or registered as a savings and credit union, as a financial services cooperative or as a cooperative credit society that conforms to the requirements of subsection 2, 3 or 4.

Source of income.

(2) All or substantially all of the revenues of a credit union must derive from:

(a) loans made to, or cashing cheques for, members;

(b) debt obligations or securities of the Gouvernement du Québec, of the Government of Canada, of another province or of a Canadian municipality, a municipal or public body performing a function of government in Canada or an agency of such a government or body, or debt obligations or securities guaranteed by such a government or by an agency of such a government;

(c) debt obligations of a corporation, commission or association not less than 90% of the shares or capital of which is owned by the Gouvernement du Québec, the Government of Canada or another province or by a Canadian municipality, deposits with such a corporation, commission or association or debt obligations or deposits guaranteed by such a corporation, commission or association;

(d) debt obligations of a bank, another credit union or a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer in Canada its services as trustee, deposits with a bank or such a credit union or corporation, or debt obligations or deposits guaranteed by a bank or such a credit union or corporation;

(e) charges, fees and dues levied directly or indirectly from its members;

(f) loans made to a cooperative credit society of which the credit union is a member or deposits with such a society; or

(g) any other prescribed revenue source.

Members of credit union.

(3) All or substantially all the members of a credit union having full voting rights must be corporations, associations, federations or confederations

(a) incorporated as credit unions or cooperative credit societies which derive all or substantially all of their revenues from sources described in subsection 2 or whose members are all or substantially all credit unions, cooperatives or a combination thereof;

(b) incorporated, organized or registered under, or governed by a law of Québec, Canada or another province with respect to cooperatives;

(c) incorporated or organized for charitable purposes; or

(d) no part of the income of which may be distributed to, or be available for the benefit of, any shareholder or member.

Corporation, association, federation or confederation considered as credit union.

(4) A corporation, association, federation or confederation would be a credit union by virtue of subsection 3 if all the members, other than individuals, having full voting rights in each credit union which is a member of that corporation, association, federation or confederation were members having full voting rights in the corporation, association, federation or confederation.

History: 1972, c. 23, s. 605; 1975, c. 22, s. 214; 1977, c. 5, s. 14; 1982, c. 5, s. 146; 1988, c. 64, s. 587; 1993, c. 16, s. 294; 1995, c. 49, s. 236; 1997, c. 3, s. 40; 2000, c. 29, s. 656; O.C. 690-2001.

Corresponding Federal Provision: 137(6) “credit union”.

Member of credit union.

798. For the purposes of this Title, a member of a credit union means

(a) a person who is recorded as a member on the records of the credit union and is entitled to participate in and use the services of the credit union; and

(b) a registered retirement savings plan, a registered retirement income fund, a tax-free savings account or a registered education savings plan, the annuitant, holder or subscriber under which is a person described in paragraph a.

History: 1972, c. 23, s. 606; 1982, c. 5, s. 147; 2009, c. 5, s. 343; 2017, c. 1, s. 241.

Corresponding Federal Provision: 137(6) “member”.

799. *(Repealed).*

History: 1972, c. 23, s. 607; 1990, c. 59, s. 301; 1993, c. 16, s. 295; 2000, c. 39, s. 102.

Allocations in proportion to loans.

300. A credit union may, in computing its income for a taxation year, deduct the aggregate of the payments it makes to its members in the year or within twelve months thereafter, as bonus interest payments or pursuant to allocations in proportion to the loans made to its members.

Conditions for deductions.

Such deduction is permitted, however, only if such payments were not deductible from the income of the credit union for the preceding taxation year.

Conditions for deductions.

Furthermore, such a deduction is permitted only if such payments are credited for the year by the credit union to the member, at the same rate as that at which such payments are similarly credited for the year to all other members of the credit union. Those payments are computed at a rate depending, in the case of bonus interest payments, on the amount of interest payable to the member in the year, on the amount of money the member has on deposit with the credit union, and, in other cases, on the amount of interest payable by the member on the borrowed money or the amount of money that he borrowed from the credit union.

History: 1972, c. 23, s. 608; 1975, c. 22, s. 215; 1982, c. 5, s. 148; 1995, c. 49, s. 180.

Corresponding Federal Provision: 137(2) and (6) “allocation in proportion to borrowing”.

Payments in respect of shares.

301. Despite any other provision of this Part, a payment received or receivable by a person from a particular credit union in respect of a share of the capital stock of the particular credit union is deemed to have been received or to be receivable from the particular credit union as interest except where the payment is made or is to be made as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation of the share by the particular credit union, to the extent of the paid-up capital of that share, and such payment as interest is deductible in computing the income of the particular credit union where the share is not listed on a stock exchange and

(a) the person is a member of the particular credit union; or

(b) the person is a member of another credit union, the share is issued by the particular credit union after 28 March 2012 and the other credit union is a member of the particular credit union.

History: 1972, c. 23, s. 609; 1975, c. 22, s. 216; 1995, c. 49, s. 181; 2003, c. 2, s. 252; 2010, c. 5, s. 77; 2015, c. 24, s. 116.

Corresponding Federal Provision: 137(4.1).

Deemed interest not a dividend.

802. Notwithstanding any other provision of this Part, an amount that is deemed under section 801 to be received or receivable as interest is deemed not to be received or receivable as a dividend.

History: 1975, c. 22, s. 217; 1994, c. 22, s. 277; 1995, c. 49, s. 182.

Corresponding Federal Provision: 137(4.2).

Payments to include in computing income of member.

803. A taxpayer must include in computing his income any payment which he receives from a credit union in respect of an allocation in proportion to borrowing for the purpose of earning income from a business or property otherwise than to acquire property the income from which would be exempt from tax or a life insurance policy.

History: 1972, c. 23, s. 610.

Corresponding Federal Provision: 137(5).

Deemed allocation.

803.1. If a credit union makes, in relation to a taxation year, a valid election under subsection 5.1 of section 137 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 to allocate an amount to another credit union that is one of its members, the credit union is deemed to have allocated to the other credit union in respect of the year such portion of each of the following amounts as may reasonably be considered to be the other credit union's share:

(a) the lesser of the aggregate of the amounts described in paragraph *a* of that subsection 5.1 in relation to the year and the aggregate of all amounts each of which is a taxable dividend received by the credit union from a taxable Canadian corporation in the year;

(b) the lesser of the excess amount determined under paragraph *b* of that subsection 5.1 in relation to the year and the amount by which the aggregate of all amounts each of which is the amount by which the credit union's capital gain from the disposition of a property in the year exceeds its taxable capital gain from the disposition, exceeds the aggregate of all amounts each of which is the amount by which the credit union's capital loss from the disposition of a property in the year exceeds its allowable capital loss from the disposition; and

(c) the lesser of the aggregate of the amounts described in paragraph *c* of that subsection 5.1 in relation to the year and the aggregate of the amounts deductible under paragraph *c* of section 803.2 in computing the credit union's taxable income for the year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 5.1 of section 137 of the

Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1982, c. 5, s. 149; 1993, c. 16, s. 296; 1997, c. 3, s. 71; 2009, c. 5, s. 344.

Corresponding Federal Provision: 137(5.1).

Rules applicable.

803.2. Despite any other provision of this Part, if an election referred to in the first paragraph of section 803.1 has been made by a credit union in relation to a taxation year, the following rules apply:

(a) the credit union shall deduct from the amount that would, but for this section, be deductible in computing its taxable income for the year under sections 738 to 745, any amount determined in respect of the year, for members to which the election applies, under the first paragraph of section 803.1 in relation to the amounts referred to in subparagraph *a* of that paragraph;

(b) the credit union shall include in computing its income for the year any amount determined in respect of the year, for members to which the election applies, under the first paragraph of section 803.1 in relation to the amounts referred to in subparagraphs *b* and *c* of that paragraph; and

(c) each member to which the election applies and in respect of which an amount is determined under the first paragraph of section 803.1 may deduct that amount in computing its taxable income for its taxation year that includes the last day of the credit union's taxation year in respect of which the amount was so determined.

History: 1982, c. 5, s. 149; 1993, c. 16, s. 297; 1994, c. 22, s. 278; 2009, c. 5, s. 344.

Corresponding Federal Provision: 137(5.2).

TITLE IV DEPOSIT INSURANCE CORPORATIONS

CHAPTER I GENERALITIES AND DEFINITIONS

Deposit insurance corporation.

804. For the purposes of this Title, a deposit insurance corporation is:

(a) a corporation incorporated by the Canada Deposit Insurance Corporation Act (Revised Statutes of Canada, 1985, chapter C-3), or

(b) a corporation incorporated by or under a law of Québec, of another province or of Canada respecting the establishment of a stabilization fund or board which meets the requirements of section 805.

History: 1975, c. 22, s. 218; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(5) "deposit insurance corporation" (a) before (i) and (b).

Deposit insurance corporation.

805. The deposit insurance corporation defined in paragraph *b* of section 804 qualifies as such for a taxation year only if it was incorporated primarily to provide or administer a stabilization, liquidity or mutual aid fund for a savings and credit union and to assist in the payment of any losses suffered by the members of such a union in liquidation and if throughout the year it was a Canadian corporation to which the cost amount of all its property, other than a debt obligation of, or a share of the capital stock of, a member institution issued by the member institution at a time when it was in financial difficulty, was at least 50% of the cost amount of the following property:

(a) bonds, debentures, notes, hypothecary claims, mortgages or similar obligations hereinafter called “obligations” issued or guaranteed by the Gouvernement du Québec, the Government of Canada or of another province, by a mandatary of any of such governments, by a Canadian municipality or by a municipal or public body performing a function of government in Canada, by a corporation, commission or association not less than 90% of the shares, capital or property of which is owned by the State, Her Majesty in right of a province, other than Québec, or a Canadian municipality, or by a wholly-controlled subsidiary of such a corporation, commission or association, or by an educational institution or hospital centre if, in this last case, repayment of the principal amount thereof and payment of the interest thereon is to be made or is guaranteed or otherwise secured by the government of a province;

(b) any deposit, deposit certificate or guaranteed investment certificate with a bank, with a corporation licensed or otherwise authorized by or under the laws of Canada or a province to carry on in Canada or in a province the business of offering to the public its services as trustee, or with a central or a savings and credit union that is a member of the Canadian Payments Association or a savings and credit union that is a member or shareholder of a central that is itself a member of the Canadian Payments Association;

(c) any money of the corporation; and

(d) in relation to a particular deposit insurance corporation, a debt obligation and a share of the capital stock of a subsidiary wholly-owned corporation of the particular corporation where the subsidiary is deemed, under section 806.1, to be a deposit insurance corporation.

Taxation year 1975.

However, in applying the first paragraph with regard to the 1975 taxation year, the words “throughout the year” therein are replaced by the words “on the last day of the year”.

History: 1975, c. 22, s. 218; 1977, c. 5, s. 14; 1984, c. 15, s. 181; 1989, c. 77, s. 90; 1990, c. 59, s. 302; 1993, c. 16, s. 298; 1996, c. 39, s. 221; 1997, c. 3, s. 71; 1998, c. 16, s. 188; 2001, c. 7, s. 116; 2005, c. 1, s. 194; 2006, c. 36, s. 87; 2010, c. 5, s. 78.

Corresponding Federal Provision: 137.1(5) “deposit insurance corporation” (a)(i) and (ii) and “investment property” (a) to (d) and (8).

Member institution.

806. For the purposes of this Title, “member institution” in relation to a deposit insurance corporation, means an institution whose liabilities in respect of deposits are insured by that corporation or a savings and credit union that is qualified for assistance from that corporation.

History: 1975, c. 22, s. 218; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(5) “member institution”.

Presumptions as to subsidiary.

806.1. For the purposes of this Title, except paragraph *b* of section 804 where paragraph *a* of subsection 1 of section 771 refers to it, the second paragraph of section 808, subparagraphs *i* and *ii* of paragraph *c* of section 810 and paragraph *a* of section 815, a subsidiary wholly-owned corporation of a particular corporation described in section 804 is deemed to be a deposit insurance corporation, and any member institution of the particular corporation is deemed to be a member institution of the subsidiary, where all or substantially all of the property of the subsidiary has at all times since the subsidiary was incorporated consisted of

(a) property described in subparagraphs *a* to *d* of the first paragraph of section 805;

(b) shares of the capital stock of a member institution of the particular corporation obtained by the subsidiary at a time when the member institution was in financial difficulty;

(c) debt obligations issued by a member institution of the particular corporation at a time when the member institution was in financial difficulty;

(d) property acquired from a member institution of the particular corporation at a time when the member institution was in financial difficulty; or

(e) any combination of property described in paragraphs *a* to *d*.

History: 1989, c. 77, s. 91; 1995, c. 49, s. 183; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(5.1).

Corporation deemed not to be a private corporation nor a credit union.

807. Notwithstanding any other provision of this Part, a deposit insurance corporation is deemed not to be a private corporation nor a savings and credit union.

History: 1975, c. 22, s. 218; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(6) and (7).

CHAPTER II RULES APPLICABLE TO THE COMPUTATION OF INCOME

Computation of income.

808. Unless otherwise provided for in this Title, a deposit insurance corporation must, for the purposes of computing its income for a taxation year, comply with the rules provided for that purpose in this Part and must include or may deduct the amounts determined in this chapter.

Amounts excluded.

The following amounts must not be included in computing the income of a deposit insurance corporation for a taxation year:

(a) any premium or assessment received, or receivable, by the corporation in the year from a member institution; and

(b) any amount received by the corporation in the year from another deposit insurance corporation to the extent that that amount can reasonably be considered to have been paid out of amounts referred to in paragraph *a* received by that other deposit insurance corporation in any taxation year.

History: 1975, c. 22, s. 218; 1984, c. 15, s. 182; 1997, c. 3, s. 71; 2009, c. 5, s. 345.

Corresponding Federal Provision: 137.1(a) and (2).

Amounts included in computing income.

809. A deposit insurance corporation must include:

(a) the aggregate of profits or gains made in the year by the corporation in respect of the disposition of an obligation which it owned;

(b) the portion included in the computation of its profits for the year, of the amount by which, at the time the corporation acquired it, the principal amount of each obligation owned by the corporation at the end of the year exceeded the cost of acquiring it;

(c) *(paragraph repealed)*.

History: 1975, c. 22, s. 218; 1990, c. 59, s. 303; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(1)(b).

Amounts deductible in computing income.

810. A deposit insurance corporation may deduct:

(a) the aggregate of the losses it has sustained during the year from the disposition of obligations owned by it and issued by other than a member institution;

(b) the portion, deducted in computing its profits for the year, of the amount by which the cost to the corporation of acquiring each obligation it owns at the end of the year exceeded the principal amount thereof at the time it was so acquired;

(c) the aggregate of the expenses it has incurred:

i. in collecting premiums and assessments from member institutions;

ii. in the performance of its duties as curator of a bank or as liquidator or receiver of a member institution when duly appointed to such duties;

iii. in the course of making or causing to be made such inspections as may reasonably be considered to be appropriate for assessing the solvency or financial stability of a member institution; and

iv. in supervising or administering a member institution in financial difficulty; and

(d) the aggregate of all amounts each of which is an amount that is not otherwise deductible by the corporation for the year or any other taxation year and that is

i. an amount paid by the corporation in the year pursuant to a legal obligation to pay interest on borrowed money used to lend money to, or otherwise provide assistance to, a member institution in financial difficulty, to assist in the payment of any losses suffered by members or depositors of a member institution in financial difficulty, to lend money to a subsidiary wholly-owned corporation of the corporation where the subsidiary is deemed by section 806.1 to be a deposit insurance corporation, to acquire property from a member institution in financial difficulty, or to acquire shares of the capital stock of a member institution in financial difficulty; or

ii. an amount paid by the corporation in the year pursuant to a legal obligation to pay interest on an amount that would be deductible under subparagraph i if it were paid in the year.

History: 1975, c. 22, s. 218; 1986, c. 19, s. 165; 1989, c. 77, s. 92; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(1), (2), (3), (5.1), (6) and (7).

811. *(Repealed)*.

History: 1975, c. 22, s. 218; 1990, c. 59, s. 304.

812. *(Repealed)*.

History: 1975, c. 22, s. 218; 1990, c. 59, s. 304.

Restriction.

813. No deposit insurance corporation may deduct an amount in computing its income in respect of

(a) any grant, subsidy or other assistance provided by it to a member institution;

(b) the amount paid or payable by the corporation to acquire a property in excess of the fair market value of such property at the time it was acquired;

(c) any amount paid to a member institution as allocation in proportion to the premiums or assessments contemplated in the second paragraph of section 808;

(c.1) any amount paid by it to another deposit insurance corporation that is, because of subparagraph *b* of the second paragraph of section 808, not included in computing the income of that other deposit insurance corporation; or

(d) (*paragraph repealed*);

(e) any amount otherwise deductible under section 141 in respect of debts owing to it by its member institutions, and which has not been included in computing its income for the year or a preceding taxation year.

History: 1975, c. 22, s. 218; 1986, c. 19, s. 166; 1990, c. 59, s. 305; 1997, c. 3, s. 71; 2009, c. 5, s. 346.

Corresponding Federal Provision: 137.1(4).

CHAPTER III**RULES APPLICABLE TO A MEMBER INSTITUTION****Computation of income of a member institution.**

814. For the purposes of this Part, every member institution in computing its income for a taxation year must include:

(a) an amount described in paragraphs *a* to *c* of section 813 received by it during the year from a deposit insurance corporation, to the extent that it has not repaid the amount to the deposit insurance corporation in the year;

(b) an amount received during the year from a deposit insurance corporation by a depositor or a member of the member institution as total or partial payment of a deposit with, or capital stock of, the member institution to the extent that it has not repaid the amount to the deposit insurance corporation in the year;

(c) when, at any time during such year, the obligation of a member institution to pay an amount to a deposit insurance corporation is settled or extinguished without any payment by the member institution or by the payment of an amount less than the principal amount, the amount by which the principal amount exceeds the amount paid by it on the

settlement or extinguishment of the obligation to the extent that the excess is not otherwise required to be included in computing the member institution's income for the year or a preceding taxation year.

Principal amount of an obligation to pay interest.

For the purposes of subparagraph *c* of the first paragraph, an amount of interest payable by a member institution to a deposit insurance corporation on an obligation is deemed to have a principal amount equal to that amount.

History: 1975, c. 22, s. 218; 1989, c. 77, s. 93; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(10) and (10.1).

Deduction by member institution.

815. A member institution in computing its income for a taxation year may deduct the following amounts:

(a) any premium or assessment referred to in the second paragraph of section 808 which is paid or payable by it in the year, to the extent that it was not deducted by it in computing its income for a preceding taxation year;

(b) any amount repaid by the member institution in the year to a deposit insurance corporation on account of an amount described in subparagraph *a* or *b* of the first paragraph of section 814 that was received in a preceding taxation year, to the extent that it was not excluded from the member institution's income by reason of section 815.1 for the preceding year.

History: 1975, c. 22, s. 218; 1990, c. 59, s. 306; 1997, c. 3, s. 71.

Corresponding Federal Provision: 137.1(11).

Repayment excluded.

815.1. Where a member institution has in a taxation year repaid an amount to a deposit insurance corporation on account of an amount that was included by virtue of subparagraph *a* or *b* of the first paragraph of section 814 in computing its income for a preceding taxation year, where the member institution has filed its fiscal return required by section 1000 for the preceding year, and where, on or before the member institution's filing-due date for the taxation year, it has filed an amended fiscal return for the preceding year excluding from its income for that year the amount repaid, the amount repaid shall be excluded from the amount otherwise included by virtue of subparagraph *a* or *b* of the first paragraph of section 814 in computing the member institution's income for the preceding year and the Minister shall make such reassessment of the tax, interest and penalties payable by the member institution for preceding taxation years as is necessary to give effect to the exclusion.

History: 1989, c. 77, s. 94; 1997, c. 3, s. 71; 1997, c. 31, s. 86.

Corresponding Federal Provision: 137.1(12).

TITLE V INSURANCE CORPORATIONS

CHAPTER I GENERAL RULES

Computation of income.

816. Every corporation, whether or not a mutual corporation, hereinafter called "insurer", which carries on in Québec, for pecuniary gain, an insurance business of any class whatever during a taxation year must compute its income and its taxable income for that year in accordance with this Title.

History: 1972, c. 23, s. 611; 1997, c. 3, s. 71.

Corresponding Federal Provision: 138(1) before (a).

Corporation deemed to carry on insurance business.

817. For the purposes of this Part, a corporation is deemed to carry on an insurance business in a taxation year if, during that year, it is a party to an insurance contract or other arrangement of a particular class whereby it can reasonably be regarded as undertaking:

(a) to insure other persons against loss, damage or expense of any kind; or

(b) to pay insurance benefits to other persons on the death of any person, on the occurrence of an event or contingency dependent on human life, for a term dependent on human life or at a fixed or determinable future time.

Corporation deemed to carry on insurance business.

The same applies whatever be the form and scope of such contract or arrangement, and even if the persons contemplated are members or shareholders of the corporation.

History: 1972, c. 23, s. 612; 1997, c. 3, s. 71; 1998, c. 16, s. 189.

Corresponding Federal Provision: 138(1)(a), (b) and before (c).

"designated insurance property".

818. In this Title, "designated insurance property" for a taxation year of an insurer, other than an insurer resident in Canada that at no time in the year carried on a life insurance business, that, at any time in the year, carried on an insurance business in Canada and elsewhere means property determined in accordance with the prescribed rules.

Taxation year preceding 1999.

However, in its application to any taxation year, "designated insurance property" for the taxation year 1998 or a preceding taxation year means property that was, under this section as it read in its application to any taxation year that ended in

1996, property used or held by an insurer in the year in the course of carrying on an insurance business in Canada.

History: 1972, c. 23, s. 613; 1978, c. 26, s. 138; 1998, c. 16, s. 190; 2004, c. 8, s. 158.

Corresponding Federal Provision: 138(12) "designated insurance property".

Corporation deemed not to be a private corporation.

818.1. Notwithstanding any other provision of this Part, an insurance corporation, other than a life insurance corporation, that would otherwise be a private corporation is, for the purposes of section 308.6 and paragraph *b* of section 570, deemed not to be a private corporation.

History: 1984, c. 15, s. 183; 1997, c. 3, s. 71; 1997, c. 14, s. 143.

Corresponding Federal Provision: 141.1.

819. (Repealed).

History: 1977, c. 26, s. 83; 1978, c. 26, s. 139.

820. (Repealed).

History: 1977, c. 26, s. 83; 1978, c. 26, s. 139.

821. (Repealed).

History: 1972, c. 23, s. 614; 1977, c. 26, s. 84; 1978, c. 26, s. 140.

CHAPTER II COMPUTATION OF INCOME OF AN INSURER

DIVISION I RULES APPLICABLE TO ALL INSURERS

Rules applicable.

822. The following rules apply for the purposes of computing the income of an insurer:

(a) any amount received under a contract or arrangement mentioned in section 817 is deemed to be received in the course of carrying on such insurance business;

(b) his income must, except when otherwise provided in this Title, be computed in accordance with the rules applicable to the computation of the income for the purposes of this Part;

(c) any income from property vested in the insurer is deemed to be his income; and

(d) all taxable capital gains and allowable capital losses resulting from the disposition of property vested in the insurer are deemed to be such gains or losses of the insurer.

History: 1972, c. 23, s. 615; 1973, c. 17, s. 93.

Corresponding Federal Provision: 138(1)(c) to (f).

DIVISION II RULES APPLICABLE TO CERTAIN INSURERS

Application of ss. 824 to 829.

823. The rules contained in sections 824 to 829 apply to any insurer, except insurers resident in Canada who do not carry on a life insurance business.

History: 1972, c. 23, s. 616.

Corresponding Federal Provision: 138(2) before (a).

Insurer's income or loss.

824. Despite any other provision of this Part, the following rules apply to an insurer:

(a) if a life insurer resident in Canada carries on an insurance business in Canada and elsewhere in a taxation year,

i. its income or loss for the year from carrying on an insurance business is the amount of its income or loss for the year from carrying on the insurance business in Canada,

ii. in computing the insurer's income or loss for the year from the insurance business carried on by it in Canada, no amount is to be included in respect of the insurer's gross investment revenue for the year derived from property used or held by it in the course of carrying on an insurance business that is not designated insurance property for the taxation year of the insurer, and

iii. in computing the insurer's taxable capital gains or allowable capital losses for the year from dispositions of capital property (in this subparagraph referred to as "insurance business property") that, at the time of the disposition, was used or held by the insurer in the course of carrying on an insurance business,

(1) there is to be included each taxable capital gain or allowable capital loss of the insurer for the year from a disposition in the year of an insurance business property that was a designated insurance property for the taxation year of the insurer, and

(2) there is not to be included any taxable capital gain or allowable capital loss of the insurer for the year from a disposition in the year of an insurance business property that was not a designated insurance property for the taxation year of the insurer; and

(b) if an insurer not resident in Canada carries on an insurance business in Canada in a taxation year,

i. its income or loss for the year from carrying on an insurance business is the amount of its income or loss for the year from carrying on the insurance business in Canada,

ii. in computing the insurer's income or loss for the year from the insurance business carried on by it in Canada, no

amount is to be included in respect of the insurer's gross investment revenue for the year derived from property used or held by it in the course of carrying on an insurance business that is not designated insurance property for the taxation year of the insurer, and

iii. in computing the insurer's taxable capital gains or allowable capital losses for the year from dispositions of capital property (in this subparagraph referred to as "insurance business property") that, at the time of the disposition, was used or held by the insurer in the course of carrying on an insurance business,

(1) there is to be included each taxable capital gain or allowable capital loss of the insurer for the year from a disposition in the year of an insurance business property that was a designated insurance property for the taxation year of the insurer, and

(2) there is not to be included any taxable capital gain or allowable capital loss of the insurer for the year from a disposition in the year of an insurance business property that was not a designated insurance property for the taxation year of the insurer.

History: 1972, c. 23, s. 617; 1993, c. 16, s. 299; 1995, c. 63, s. 261; 1998, c. 16, s. 191; 2009, c. 5, s. 347.

Corresponding Federal Provision: 138(2)(a) and (b).

Gross investment revenue to be included.

825. An insurer carrying on an insurance business in Canada and elsewhere in a taxation year must include in computing its income for the year from carrying on its insurance businesses in Canada the aggregate of

(a) its gross investment revenue for the year from its designated insurance property for the year; and

(b) the amount prescribed in respect of the insurer for the year.

Gross investment revenue.

For the purposes of this section, gross investment revenue of an insurer for a taxation year is the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts each of which is an amount deemed by paragraph *b* of section 125.0.1 to be paid by it in respect of the year as interest, or an amount deductible under paragraph *b* of section 851.22.4 in computing its income for the year:

(a) any amount included in its gross revenue for the year, that is a taxable dividend or an amount received or receivable as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties, other than an amount in respect of a debt obligation to which section 851.22.4 applies for the year;

(b) its income for the year from each trust of which it is a beneficiary or from each partnership of which it is a member;

(c) all amounts required by section 120 to be included in computing its income for the year;

(d) any amount required under paragraph *a* of section 851.22.4 to be included in computing its income for the year or, except to the extent that such amount has been included in computing its gross investment revenue by virtue of subparagraph *a*, under section 92 or 167; and

(e) the amount by which the aggregate of all amounts included by reason of paragraph *c* of section 312 in computing its income for the year exceeds the aggregate of all amounts deducted under paragraph *f* of section 336 in computing its income for the year.

History: 1972, c. 23, s. 618; 1977, c. 26, s. 85; 1978, c. 26, s. 141; 1984, c. 15, s. 184; 1990, c. 59, s. 307; 1993, c. 16, s. 300; 1996, c. 39, s. 222; 1997, c. 3, s. 71; 1998, c. 16, s. 192.

Corresponding Federal Provision: 138(9) and (12) “gross investment revenue”.

Application of financial institution rules.

825.0.1. Notwithstanding sections 851.22.4 to 851.22.22.11, where in a taxation year an insurer carries on an insurance business in Canada and elsewhere, the following rules apply in computing its income for the year from carrying on its insurance business in Canada:

(a) sections 851.22.4, 851.22.5 and 851.22.14 to 851.22.22.11 apply only in respect of property that is designated insurance property for the year in respect of the business; and

(b) sections 851.22.6 to 851.22.13 apply only in respect of the disposition of property that, for the taxation year in which the insurer disposed of it, was designated insurance property in respect of the business.

History: 1996, c. 39, s. 223; 1998, c. 16, s. 193; 2010, c. 25, s. 92.

Corresponding Federal Provision: 138(10).

825.1. *(Repealed).*

History: 1978, c. 26, s. 142; 1990, c. 59, s. 308.

826. *(Repealed).*

History: 1972, c. 23, s. 619; 1973, c. 17, s. 94; 1978, c. 26, s. 143.

827. *(Repealed).*

History: 1972, c. 23, s. 620; 1978, c. 26, s. 144.

828. *(Repealed).*

History: 1972, c. 23, s. 621; 1977, c. 26, s. 86; 1978, c. 26, s. 145; 1993, c. 16, s. 301; 1998, c. 16, s. 194.

829. *(Repealed).*

History: 1972, c. 23, s. 622; 1973, c. 17, s. 95; 1978, c. 26, s. 146.

830. *(Repealed).*

History: 1977, c. 26, s. 87; 1978, c. 26, s. 147.

831. *(Repealed).*

History: 1977, c. 26, s. 87; 1978, c. 26, s. 147.

Dividends, refund of premiums deductible.

832. An insurer may deduct in computing its income derived for the taxation year from the carrying on of an insurance business, other than a life insurance business, any amount credited by it for the year or a preceding taxation year in respect of that business to one of its policyholders by way of a policy dividend, refund of premiums or refund of premium deposits.

Restrictions.

Such amount is, however, deductible only if it is, during the year or within the ensuing 12 months:

(a) paid or unconditionally credited to the policyholder; or

(b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the insurer;

(c) *(subparagraph repealed).*

History: 1972, c. 23, s. 623; 1990, c. 59, s. 309; 1994, c. 22, s. 279; 1996, c. 39, s. 273; 2001, c. 53, s. 165.

Corresponding Federal Provision: 140(1).

Inclusion in computing income.

832.0.1. An insurer shall include in computing its income derived from the carrying on of an insurance business for its first taxation year that commences after 17 June 1987 and ends after 31 December 1987, in this section referred to as its “taxation year 1988”, the amount by which

(a) the aggregate of all amounts each of which is an amount deducted by the corporation in computing its income for a taxation year ending before its taxation year 1988, pursuant to subparagraph *c* of the second paragraph of section 832 or pursuant to that paragraph by reason of paragraph *b* of section 841 as such paragraph *b* read in respect of that taxation year ending before its taxation year 1988, in respect of any amount credited to the account of the policyholder on terms that he is entitled to payment thereof on or before the expiry or termination of the policy, exceeds

(b) the aggregate of all amounts each of which is an amount paid or unconditionally credited to a policyholder or applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the insurer before the insurer’s taxation year 1988 in respect of the amounts

credited to the account of the policyholder referred to in paragraph *a*.

History: 1990, c. 59, s. 310; 1996, c. 39, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: 140(2).

Deemed disposition.

832.1. Subject to section 832.1.1, where a property of a life insurer resident in Canada that carries on an insurance business in Canada and elsewhere or of an insurer not resident in Canada is described in the second paragraph for a taxation year, the following rules apply:

(a) the insurer is deemed to have disposed of the property at the beginning of the year for proceeds of disposition equal to its fair market value at that time and to have reacquired the property immediately after that time at a cost equal to that fair market value;

(b) in the case of property referred to in subparagraph *a* of the second paragraph, any gain or loss arising from the disposition is deemed not to be a gain or loss from designated insurance property of the insurer for the year; and

(c) in the case of property referred to in subparagraph *b* of the second paragraph, any gain or loss arising from the disposition is deemed to be a gain or loss from designated insurance property of the insurer for the year.

Interpretation.

A property to which the first paragraph refers for a taxation year is

(a) designated insurance property for the year that was owned by the insurer at the end of the preceding taxation year and was not designated insurance property of the insurer for that preceding year; or

(b) property that is not designated insurance property for the year, was owned by the insurer at the end of the preceding taxation year and was designated insurance property of the insurer for that preceding year.

Exclusion from deemed disposition.

However, the first and second paragraphs shall be disregarded in applying sections 140, 140.1 and 818, subparagraph *i* of subparagraph *e* of the first paragraph of section 93 and subparagraph *c* of the second paragraph of that section where it refers to the capital cost of a property.

History: 1984, c. 15, s. 185; 1985, c. 25, s. 135; 1990, c. 59, s. 311; 1996, c. 39, s. 224; 1998, c. 16, s. 195; 2001, c. 53, s. 166; 2004, c. 8, s. 159.

Corresponding Federal Provision: 138(11.3) and (11.31).

Exclusion from deemed disposition.

832.1.1. Section 832.1 does not apply to deem a disposition in a taxation year of a property of an insurer

where the insurer is deemed by section 851.22.15 to have disposed of the property in the preceding taxation year.

History: 1996, c. 39, s. 225; 1998, c. 16, s. 195.

Corresponding Federal Provision: 138(11.31)(a).

Deduction of loss.

832.2. Notwithstanding any other provision of this Part, where an insurer has a loss for a taxation year from the disposition, because of section 832.1, of a property other than a specified debt obligation, as defined in section 851.22.1, and the loss would, but for this section, have been deductible for the year, the loss shall be deductible only in the taxation year in which the taxpayer disposes of the property otherwise than because of section 832.1.

History: 1984, c. 15, s. 185; 1996, c. 39, s. 226.

Corresponding Federal Provision: 138(11.4).

832.2.1. (Repealed).

History: 1990, c. 59, s. 312; 1996, c. 39, s. 227.

Transferred property.

832.3. The rules prescribed in the second paragraph apply where the following conditions are met:

(a) an insurer not resident in Canada, in this section referred to as the “transferor”, has, at any time in a taxation year, ceased to carry on all or substantially all of an insurance business carried on by it in Canada in that year;

(b) the transferor has, at the time referred to in subparagraph *a* or within 60 days after that time, transferred all or substantially all of the property, in this section referred to as the “transferred property”, that is owned by it at that time and that was designated insurance property in relation to the business for the taxation year that, because of the election referred to in subparagraph *d*, ended immediately before that time, to a corporation, in this section referred to as the “transferee”, that is a prescribed corporation which, immediately after that time, began to carry on that insurance business in Canada, and the consideration for the transfer includes shares of the capital stock of the transferee;

(c) the transferee has, at the time referred to in subparagraph *a* or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the course of carrying on the insurance business in Canada referred to in subparagraph *a*;

(d) the transferor and the transferee have made a valid election under paragraph *d* of subsection 11.5 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer.

Rules applicable.

The rules referred to in the first paragraph are as follows:

(a) subject to subparagraph *g.1*, where the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the consideration, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor for the transferred property does not exceed the aggregate of the cost amounts to the transferor, at that time, of the transferred property, the proceeds of disposition of the transferor and the cost to the transferee of the transferred property are deemed to be equal to the cost amount, at that time, to the transferor of the transferred property, and, in any other case, sections 521 to 526 and 528 shall be applied in respect of the transfer;

(b) where sections 521 to 526 and 528 are not required to be applied in respect of the transfer, the cost to the transferor of any particular property, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor as consideration for the transferred property is deemed to be equal to the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the particular property;

(c) where sections 521 to 526 and 528 are not required to be applied in respect of the transfer, the cost to the transferor of any share of the capital stock of the transferee received or receivable by the transferor as consideration for the transferred property is deemed to be equal to,

i. where the share is a preferred share of any class of the capital stock of the transferee, the lesser of

(1) the fair market value of that share immediately after the transfer of the transferred property, and

(2) the amount determined by the formula

$$A \times B / C,$$

ii. where the share is a common share of any class of the capital stock of the transferee, the amount determined by the formula

$$D \times E / F;$$

(d) *(subparagraph repealed)*;

(e) for the purpose of determining the amount of gross investment revenue required by the first paragraph of section 825 to be included in computing the transferor's income for the transferor's particular taxation year that ended immediately before the time referred to in subparagraph *a* of the first paragraph and of determining its gains and losses from its designated insurance property for its subsequent taxation years, the transferor is deemed to have transferred the business referred to in subparagraph *a* of the first paragraph, the property referred to in subparagraph *b* of that paragraph and the obligations referred to in subparagraph *c*

of that paragraph to the transferee on the last day of the particular taxation year;

(f) for the purpose of determining the income of the transferor and the transferee for their taxation years following their particular taxation years that ended immediately before the time referred to in subparagraph *a* of the first paragraph, the amounts deducted by the transferor as reserves under sections 140, 140.1 and 140.2, the second paragraph of section 152 and paragraphs *a* and *a.1* of section 840 in its particular taxation year in respect of the transferred property referred to in subparagraph *b* of the first paragraph or the obligations referred to in subparagraph *c* of that paragraph, are deemed to have been deducted by the transferee, and not the transferor, for its particular taxation year;

(f.1) for the purpose of determining the income of the transferor and the transferee for their taxation years following their particular taxation years that ended immediately before the time referred to in subparagraph *a* of the first paragraph, the amounts included under paragraph *e.1* of section 87 and paragraph *a.1* of section 844 in computing the transferor's income for its particular taxation year in respect of the insurance policies of the business referred to in subparagraph *a* of the first paragraph are deemed to have been included in computing the income of the transferee, and not of the transferor, for their particular taxation years;

(g) for the purposes of this chapter, sections 87 to 87.4, 89 to 92.7, 92.22, 128, 130 and 130.1, paragraph *b* of section 135, sections 137 to 143, 145 to 154, 155, 156, 157 to 157.3, 157.5 to 158, 160 to 163.1, 167, 167.1, 176 to 179, 183 and 835 to 851.22, paragraphs *c* and *d* of section 851.22.11 and sections 966 to 977.1, the transferee is deemed, for its taxation years following its taxation year that ended immediately before the time referred to in subparagraph *a* of the first paragraph, to be a continuation of the transferor in respect of the transferred property, the business referred to in subparagraph *a* of the first paragraph and the obligations referred to in subparagraph *c* of that paragraph;

(g.1) except for the purposes of this section, where the provisions of sections 521 to 526 and 528 are not required to be applied in respect of the transfer, the following rules apply to each transferred property that is a specified debt obligation, other than a mark-to-market property, within the meaning assigned by section 851.22.1:

i. the transferor is deemed not to have disposed of that property, and

ii. the transferee is deemed, in respect of that property, to be a continuation of the transferor;

(g.2) for the purposes of sections 744.6 and 744.8 and the definition of "mark-to-market property" in section 851.22.1,

the transferee is deemed to be a continuation of the transferor in respect of the transferred property;

(h) for the purposes of this section and section 832.5, the fair market value of consideration received by the transferor from the transferee in respect of the assumption or reinsurance of a particular obligation referred to in subparagraph *c* of the first paragraph is deemed to be equal to the aggregate of the amounts deducted by the transferor as reserves under the second paragraph of section 152 and paragraphs *a* and *a.1* of section 840 in its taxation year that ended immediately before the time referred to in subparagraph *a* of the first paragraph in respect of the particular obligation; and

(i) for the purposes of computing the income of the transferor or the transferee for their taxation years following their taxation years that ended immediately before the time referred to in subparagraph *a* of the first paragraph, the following amounts shall be included or deducted, as the case may be, only to the extent that may be reasonably regarded as necessary to determine the appropriate amount of income of both the transferor and the transferee:

(1) an amount in respect of a reinsurance premium paid or payable by the transferor to the transferee in respect of the obligations referred to in subparagraph *c* of the first paragraph under a reinsurance arrangement undertaken to effect the transfer of the insurance business to which this section applied;

(2) an amount in respect of a reinsurance commission paid or payable by the transferee to the transferor in respect of the amount referred to in subparagraph 1 under the reinsurance arrangement referred to in that subparagraph.

Interpretation.

For the purposes of the formulas set forth in subparagraph *c* of the second paragraph,

(a) A is the amount by which the proceeds of disposition of the transferor of the transferred property determined under subparagraph *a* of the second paragraph exceed the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the consideration, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor for the transferred property;

(b) B is the fair market value, immediately after the transfer of the transferred property, of the preferred share of the class referred to in subparagraph *i* of the said subparagraph *c*;

(c) C is the fair market value, immediately after the transfer of the transferred property, of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property;

(d) D is the amount by which the proceeds of disposition of the transferor of the transferred property, determined under

subparagraph *a* of the second paragraph, exceed the aggregate of the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the consideration, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor for the transferred property and the cost to the transferor of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property;

(e) E is the fair market value, immediately after the transfer of the transferred property, of the common share of the class referred to in subparagraph *ii* of the said subparagraph *c* of the capital stock of the transferee;

(f) F is the fair market value, immediately after the transfer of the transferred property, of all common shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property.

Filing requirements.

Where the rules under the second paragraph apply in respect of a transfer, the prescribed form along with a copy of every document sent to the Minister of Revenue of Canada in respect of the transfer, in connection with the election referred to in subparagraph *d* of the first paragraph, shall be sent to the Minister on or before the earliest of the filing-due dates of the transferor and the transferee for the taxation year in which the transactions to which the election relates occurred.

History: 1984, c. 15, s. 185; 1990, c. 59, s. 313; 1993, c. 16, s. 302; 1996, c. 39, s. 228; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 1997, c. 85, s. 196; 1998, c. 16, s. 196; 2000, c. 5, s. 293; 2004, c. 8, s. 160; 2009, c. 5, s. 348; 2015, c. 24, s. 117.

Corresponding Federal Provision: 138(11.5) and (11.6).

Capital cost of depreciable property.

832.4. For the purposes of Division II of Chapter II of Title III of Book III, sections 130 and 130.1 and the regulations made under paragraph *a* of section 130, where section 832.3 applies in respect of a transfer of depreciable property by an insurer not resident in Canada to a prescribed corporation for the purposes of subparagraph *b* of the first paragraph of section 832.3, where the provisions of sections 521 to 526 and 528 are not required to be applied in respect of the transfer, and where the capital cost to the insurer of the depreciable property exceeds its proceeds of disposition therefor, the following rules apply:

(a) the capital cost of the depreciable property to the corporation is deemed to be the capital cost thereof to the insurer;

(b) the excess is deemed to have been allowed to the corporation as depreciation in respect of the property under regulations made under paragraph *a* of section 130 in

computing its income for taxation years ending before the transfer.

History: 1990, c. 59, s. 314; 1997, c. 3, s. 71.

Corresponding Federal Provision: 138(11.8).

Computation of contributed surplus.

832.5. For the purposes of paragraph *d* of subsection 2 of section 504, where, after 15 December 1987, sections 521 to 526, 528 and 832.3 apply in respect of a transfer of property by a person or partnership to an insurance corporation resident in Canada, the contributed surplus of the corporation arising on the transfer is deemed to be equal to the amount by which the amount of such contributed surplus otherwise determined exceeds the amount by which

(a) the aggregate of

i. the fair market value, immediately after the transfer, of any consideration, other than shares of the capital stock of the corporation, received or receivable by the person or partnership from the corporation for the transferred property,

ii. the increase in the paid-up capital of all the shares of the capital stock of the corporation, determined without reference to subsection 11.7 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and subsection 2.1 of section 85 of the said Act as they apply in respect of the transfer, arising on the transfer, and

iii. the increase in the contributed surplus of the corporation, determined without reference to this section as it applies in respect of the transfer, exceeds

(b) the aggregate of

i. all amounts each of which is an amount required to be deducted in computing the paid-up capital of a class of shares of the capital stock of the corporation under subsection 11.7 of section 138 of the Income Tax Act and subsection 2.1 of section 85 of the said Act, as the case may be, as they apply in respect of the transfer, and

ii. the cost to the corporation of the transferred property.

History: 1990, c. 59, s. 314; 1997, c. 3, s. 71; 1997, c. 14, s. 144.

Corresponding Federal Provision: 138(11.9).

Computation of income of insurer not resident in Canada.

832.6. Where, at any time in a particular taxation year, an insurer not resident in Canada carries on an insurance business in Canada and, immediately before that time, the insurer was not carrying on an insurance business in Canada or ceased to be exempt from tax under this Part on any income from such business by reason of any Act of the Legislature of Québec or of the Government of Canada or of anything approved, made or declared to have the force of law thereunder, for the purpose of computing the income of the

insurer for the particular taxation year, the following rules apply:

(a) the insurer is deemed to have had a taxation year ending immediately before the commencement of the particular taxation year;

(b) for the purposes of paragraphs *d*, *d.1* and *e* of section 87, sections 818 and 825 and paragraph *a* of section 844, the insurer is deemed to have carried on the insurance business in Canada in the preceding taxation year referred to in paragraph *a* and to have deducted, in computing its income for that year, the maximum amounts to which it would have been entitled under sections 140, 140.1 and 140.2, the second paragraph of section 152 and paragraphs *a* and *a.1* of section 840;

(b.1) for the purposes of section 157.6.1 and paragraph *a.2* of section 840, the insurer is deemed to have carried on the insurance business in Canada in the preceding taxation year referred to in paragraph *a* and to have included, in computing its income for that preceding taxation year, the amounts that would have been prescribed in respect of the insurer for the purposes of paragraph *e.1* of section 87 and paragraph *a.1* of section 844 for that year in respect of the insurance policies of that business;

(c) the insurer is deemed to have disposed, immediately before the beginning of the particular taxation year, of each property owned by it at that time that is designated insurance property in relation to the insurance business in Canada for the particular taxation year, for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired, at the beginning of the particular taxation year, the property at a cost equal to that fair market value; and

(d) *(paragraph repealed)*.

History: 1990, c. 59, s. 314; 1997, c. 14, s. 145; 1997, c. 31, s. 143; 1998, c. 16, s. 197; 2004, c. 8, s. 161; 2009, c. 5, s. 349; 2015, c. 24, s. 118; 2020, c. 16, s. 122.

Corresponding Federal Provision: 138(11.91).

Computation of income where insurance business is transferred.

832.7. Where, at any time in a taxation year, an insurer, in this section referred to as the "vendor", has disposed of all or substantially all of an insurance business carried on by it in Canada, or of a line of business of such a business, to a person, in this section referred to as the "purchaser", and obligations in respect of the business or line of business, as the case may be, in respect of which a reserve may be claimed under the second paragraph of section 152 or paragraph *a* or *a.1* of section 840 were assumed by the purchaser, the following rules apply:

(a) for the purpose of determining the amount of the gross investment revenue required to be included in computing the income of the vendor and the purchaser under the first

paragraph of section 825 and the amount of the gains and losses of the vendor and the purchaser from designated insurance property for the year,

i. the vendor and the purchaser are deemed, in addition to their normal taxation years, to have had a taxation year ending immediately before that time;

ii. for the taxation years of the vendor and the purchaser following that time, the business or line of business, as the case may be, disposed of to the purchaser is deemed to have been disposed of on the last day of the taxation year referred to in subparagraph i, and the obligations assumed by the purchaser are deemed to have been assumed on the last day of that taxation year;

(b) for the purposes of computing the income of the vendor and the purchaser for taxation years ending after that time, the following amounts are deemed to have been paid or payable or received or receivable, as the case may be, by the vendor or the purchaser, as the case may be, in the course of carrying on the business or line of business, as the case may be:

i. an amount paid or payable by the vendor to the purchaser in respect of the obligations;

ii. an amount in respect of a commission paid or payable by the purchaser to the vendor in respect of an amount referred to in subparagraph i.

History: 1990, c. 59, s. 314; 1998, c. 16, s. 198.

Corresponding Federal Provision: 138(11.92).

Property acquired on default in payment.

832.8. Where, at any time in a taxation year, the beneficial ownership of property is acquired or reacquired by the insurer in consequence of another person's failure to pay all or any part of an amount, in this section referred to as the "insurer's claim", owing to the insurer at that time in respect of a bond, debenture, hypothecary claim, mortgage, agreement of sale or any other form of indebtedness owned by the insurer, the following rules apply to the insurer:

(a) sections 484.7 to 484.13 do not apply in respect of the acquisition or reacquisition;

(b) the insurer is deemed to have acquired or reacquired, as the case may be, the property at an amount equal to its fair market value, immediately before that time;

(c) the insurer is deemed to have disposed at that time of the portion of the indebtedness represented by the insurer's claim for proceeds of disposition equal to the fair market value referred to in paragraph b and, immediately after that time, to have reacquired that portion of the indebtedness at a cost of nil;

(d) the acquisition or reacquisition is deemed to have no effect on the form of the indebtedness;

(e) no amount is deductible in respect of the insurer's claim by reason of sections 140 and 140.1 in computing the insurer's income for the taxation year or a subsequent taxation year.

History: 1990, c. 59, s. 314; 1996, c. 39, s. 229; 2005, c. 1, s. 195.

Corresponding Federal Provision: 138(11.93).

Transfer of insurance business by insurer resident in Canada.

832.9. Subparagraphs *a* to *i* of the second paragraph of section 832.3 and sections 832.4 and 832.5 apply in respect of the transfer referred to in subparagraph *b*, where

(a) an insurer resident in Canada, in this section referred to as the "transferor", has ceased, at any time in a taxation year, to carry on all or substantially all of an insurance business carried on by it in Canada in that year;

(b) the transferor has, at that time or within 60 days after that time, transferred to a corporation resident in Canada (in this section referred to as the "transferee") that is a prescribed corporation for the purposes of subparagraph *b* of the first paragraph of section 832.3 and that, immediately after that time, began to carry on the insurance business in Canada referred to in subparagraph *a* for consideration that includes shares of the capital stock of the transferee, all or substantially all of the property (in section 832.3 referred to as the "transferred property") that is,

i. where the transferor is a life insurer that carries on an insurance business in Canada and elsewhere in the year, property that is owned by it at that time and that was designated insurance property in relation to the business for the taxation year that, because of the election referred to in subparagraph *d*, ended immediately before that time, or

ii. in any other case, property owned by the transferor at that time and used or held by it in the year in the course of carrying on that insurance business in Canada in the year;

(c) the transferee has, at that time or within 60 days after that time, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the course of carrying on the insurance business in Canada referred to in subparagraph *a*; and

(d) the transferor and the transferee have made a valid election under paragraph *d* of subsection 11.94 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer.

Filing requirements.

In addition, where the first paragraph applies in respect of the transfer referred to in subparagraph *b* of that paragraph, the prescribed form along with a copy of every document sent to

the Minister of Revenue of Canada in respect of the transfer, in connection with the election referred to in subparagraph *d* of the first paragraph, shall be sent to the Minister on or before the earliest of the filing-due dates of the transferor and the transferee for the taxation year in which the transactions to which the election relates occurred.

History: 1990, c. 59, s. 314; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 1997, c. 85, s. 197; 1998, c. 16, s. 199; 2000, c. 5, s. 293; 2004, c. 8, s. 162; 2009, c. 5, s. 350; 2015, c. 24, s. 119.

Corresponding Federal Provision: 138(11.94).

CHAPTER II.1

CONVERSION OF INSURANCE CORPORATIONS INTO MUTUAL CORPORATIONS

Conversion of insurance corporations into mutual corporations.

832.10. Where an insurance corporation that is a Canadian corporation applies an amount in payment for shares of the corporation purchased or otherwise acquired by it under a mutualization proposal under Division III of Part VI of the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or, where the corporation is incorporated under the laws of a province, under a law of that province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with that law,

(a) sections 111 to 119.1 do not apply to require the inclusion, in computing the income of a shareholder of the corporation, of any part of that amount; and

(b) no part of that amount is deemed, for the purposes of sections 846 to 850, to have been paid to shareholders or, for the purposes of sections 504 to 510.1 and 517, to have been received as a dividend.

History: 1995, c. 49, s. 184; 1997, c. 3, s. 71.

Corresponding Federal Provision: 139.

CHAPTER II.2

DEMUTUALIZATION OF INSURANCE CORPORATIONS

Definitions:

832.11. In this chapter,

“conversion benefit”;

“conversion benefit” means a benefit received in connection with the demutualization of an insurance corporation because of an interest, before the demutualization, of any person in an insurance policy to which the insurance corporation was a party;

“deadline”;

“deadline” for a payment in respect of a demutualization of an insurance corporation means the latest of

(a) the end of the thirteenth month after the time of the demutualization;

(b) where the entire amount of the payment depends on the outcome of an initial public offering of shares of the corporation or a holding corporation in respect of the insurance corporation, the end of the day that is 60 days after the day on which the public offering is completed;

(c) where the payment is made after the initial deadline for the payment and it is reasonable to conclude that the payment was postponed beyond that initial deadline because there was not sufficient information available 60 days before that initial deadline with regard to the location of a person, the end of the sixth month after such information becomes available; and

(d) the end of any other day that is acceptable to the Minister;

“demutualization”;

“demutualization” means the conversion of an insurance corporation from a mutual company into a corporation that is not a mutual company;

“holding corporation”;

“holding corporation” means a corporation that in connection with the demutualization of an insurance corporation, has issued shares of its capital stock to stakeholders and owns shares of the capital stock of the insurance corporation acquired in connection with the demutualization that entitle it to 90% or more of the votes that could be cast in respect of shares under all circumstances at an annual meeting of

(a) shareholders of the insurance corporation; or

(b) shareholders of the insurance corporation and holders of insurance policies to which the insurance corporation is a party;

“initial deadline”;

“initial deadline” for a payment is the time that would, if the definition of “deadline” were read without reference to paragraph *c* of that definition, be the deadline for the payment;

“mutual holding corporation”;

“mutual holding corporation” in respect of an insurance corporation, means a mutual company established to hold shares of the capital stock of the insurance corporation, where the only persons entitled to vote at an annual meeting of the mutual company are policyholders of the insurance corporation;

“ownership rights”;

“ownership rights” means

(a) in a particular mutual holding corporation, the following rights and interests held by a person in respect of the particular mutual holding corporation because of an interest or former interest of any person in an insurance policy to which an insurance corporation, in respect of which the particular corporation is the mutual holding corporation, has been a party:

i. rights that are similar to rights attached to shares of the capital stock of a corporation, and

ii. all other rights with respect to, and interests in, the particular corporation as a mutual company; and

(b) in a mutual insurance corporation, the following rights and interests held by a person in respect of the mutual insurance corporation because of an interest or former interest of any person in an insurance policy to which that corporation was a party:

i. rights that are similar to rights attached to shares of the capital stock of a corporation,

ii. all other rights with respect to, and interests in, the mutual insurance corporation as a mutual company, and

iii. any contingent or absolute right to receive a benefit in connection with the demutualization of the mutual insurance corporation;

“person”;

“person” includes a partnership;

“share”;

“share” of the capital stock of a corporation includes a right granted by the corporation to acquire a share of its capital stock;

“specified insurance benefit”;

“specified insurance benefit” means a taxable conversion benefit that is

(a) an enhancement of benefits under an insurance policy;

(b) an issuance of an insurance policy;

(c) an undertaking by an insurance corporation of an obligation to pay a policy dividend; or

(d) a reduction in the amount of premiums that would otherwise be payable under an insurance policy;

“stakeholder”;

“stakeholder” means a person who has received or who is entitled to receive a conversion benefit but, in respect of the demutualization of an insurance corporation, does not include a holding corporation in connection with the demutualization or a mutual holding corporation in respect of the insurance corporation;

“taxable conversion benefit”.

“taxable conversion benefit” means a conversion benefit received by a stakeholder in connection with the demutualization of an insurance corporation, other than a conversion benefit that is

(a) a share of a class of the capital stock of the corporation;

(b) a share of a class of the capital stock of a corporation that is or becomes a holding corporation in connection with the demutualization; or

(c) an ownership right in a mutual holding corporation in respect of the insurance corporation.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(1).

Rules.

832.12. For the purposes of sections 832.11 to 832.25, the following rules apply:

(a) subject to paragraphs *b* to *g*, if in providing a benefit in respect of a demutualization, a corporation becomes obligated, either absolutely or contingently, to make or arrange a payment, the person to whom the undertaking to make or arrange the payment was given is considered to have received a benefit as a consequence of the undertaking of the obligation and not as a consequence of the making of the payment;

(b) where, in providing a benefit in respect of a demutualization, a corporation makes a payment, other than a payment, made pursuant to the terms of an insurance policy, that is not a policy dividend, at any time on or before the deadline for the payment,

i. subject to paragraphs *f* and *g*, the recipient of the payment is considered to have received a benefit as a consequence of the making of the payment, and

ii. no benefit is considered to have been received as a consequence of the undertaking of an obligation, that is either contingent or absolute, to make or arrange the payment;

(c) no benefit is considered to have been received as a consequence of the undertaking of an absolute or contingent obligation of a corporation to make or arrange a payment, other than a payment, made pursuant to the terms of an insurance policy, that is not a policy dividend, unless it is reasonable to conclude that there is sufficient information with regard to the location of a person to make or arrange the payment;

(d) where a corporation’s obligation to make or arrange a payment in connection with a demutualization ceases on or before the initial deadline for the payment and without the payment being made in whole or in part, no benefit is considered to have been received as a consequence of the undertaking of the obligation unless the payment was to be a payment, other than a policy dividend, pursuant to the terms of an insurance policy;

(e) no benefit is considered to have been received as a consequence of the undertaking of an absolute or contingent obligation of a corporation to make or arrange a payment where

i. paragraph *a* would, but for this paragraph, apply with respect to the obligation,

ii. paragraph *d* would, if that paragraph were read without reference to the words "on or before the initial deadline for the payment", apply in respect of the obligation,

iii. it is reasonable to conclude that there was not, before the initial deadline for the payment, sufficient information with regard to the location of a person to make or arrange the payment, and

iv. such information becomes available on a particular day after the initial deadline, and the obligation ceases not more than six months after the particular day;

(f) no benefit is considered to have been received as a consequence of an undertaking of an absolute or contingent obligation of a corporation to make or arrange an annuity payment through the issuance of an annuity contract or a receipt of an annuity payment under the contract so issued where it is reasonable to conclude that the purpose of the undertaking or the making of the annuity payment is to supplement benefits provided under either an annuity contract to which paragraph *a* of section 2.3 and section 965.0.17.2 applied or a group annuity contract that had been issued under, or pursuant to, a registered pension plan that has wound up;

(g) no benefit is considered to have been received as a consequence of

i. an amendment to which section 965.0.17.3 would, but for subparagraph *b* of the first paragraph thereof, apply, or

ii. a substitution to which paragraph *a* of section 965.0.17.4 applies;

(h) the time at which a stakeholder is considered to receive a benefit in connection with the demutualization of an insurance corporation is

i. where the benefit is a payment made at or before the time of the demutualization or is a payment to which paragraph *b* applies, the time at which the payment is made, and

ii. in any other case, the latest of

(1) the time of the demutualization,

(2) where the extent of the benefit or the stakeholder's entitlement to it depends on the outcome of an initial public offering of shares of the corporation or a holding corporation in respect of the insurance corporation and the offering is completed within 13 months after the time of the demutualization, the time at which the offering is completed,

(3) where the entire amount of the benefit depends on the outcome of an initial public offering of shares of the corporation or a holding corporation in respect of the insurance corporation, the time at which the offering is completed,

(4) where it is reasonable to conclude that the person conferring the benefit does not have sufficient information with regard to the location of the stakeholder before the later

of the times determined under subparagraphs 1 to 3, to advise the stakeholder of the benefit, the time at which sufficient information with regard to the location of the stakeholder to so advise the stakeholder was received by that person, and

(5) the end of any other day that is acceptable to the Minister;

(i) the time at which an insurance corporation is considered to demutualize is the time at which it first issues a share of its capital stock, other than shares of its capital stock issued by it when it was a mutual company if the corporation did not cease to be a mutual company because of the issuance of those shares; and

(j) subject to paragraph *b* of section 832.13, the value of a benefit received by a stakeholder is the fair market value of the benefit at the time the stakeholder receives the benefit.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(2).

Special cases.

832.13. For the purposes of sections 832.11 to 832.25, the following rules apply:

(a) where benefits under an insurance policy (a) are enhanced, otherwise than by way of an amendment to which section 965.0.17.3 would, but for subparagraph *b* of the first paragraph thereof, apply, in connection with a demutualization, the value of the enhancement is deemed to be a benefit received by the policyholder and not by any other person;

(b) where premiums payable under an insurance policy to an insurance corporation are reduced in connection with a demutualization, the policyholder is deemed, as a consequence of the undertaking to reduce the premiums, to have received a benefit equal to the present value at the time of the demutualization of the additional premiums that would have been payable if the premiums had not been reduced in connection with the demutualization;

(c) the payment of a policy dividend by an insurance corporation or an undertaking of an obligation by the corporation to pay a policy dividend is considered to be in connection with the demutualization of the corporation only to the extent that

i. the policy dividend is referred to in the demutualization proposal sent by the corporation to stakeholders,

ii. the obligation to make the payment is contingent on stakeholder approval for the demutualization, and

iii. the payment or undertaking cannot reasonably be considered to have been made or given, as the case may be, to ensure that policyholders are not adversely affected by the demutualization;

(d) except for the purposes of paragraphs *c*, *e* and *f*, where part of a policy dividend is a conversion benefit in respect of the demutualization of an insurance corporation and part of it is not, each part of the policy dividend is deemed to be a policy dividend that is separate from the other part;

(e) a policy dividend includes an amount that is in lieu of payment of, or in satisfaction of, a policy dividend;

(f) the payment of a policy dividend includes the application of the policy dividend to pay a premium under an insurance policy or to repay a policy loan;

(g) where the demutualization of an insurance corporation is effected by the amalgamation of the corporation with one or more other corporations to form one corporate entity, that entity is deemed to be the same corporation as, and a continuation of, the insurance corporation; and

(h) an insurance corporation shall be considered to have become a party to an insurance policy at the time that the insurance corporation becomes liable in respect of obligations of an insurer under the policy.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(3).

Consequences of demutualization.

832.14. Where a particular insurance corporation demutualizes, the following rules apply:

(a) each of the income, loss, capital gain and capital loss of a taxpayer, from the disposition, alteration or dilution of the taxpayer's ownership rights in the particular corporation as a result of the demutualization, is deemed to be nil;

(b) no amount paid or payable to a stakeholder in connection with the disposition, alteration or dilution of the stakeholder's ownership rights in the particular corporation may be included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1);

(c) (*paragraph repealed*);

(d) where the consideration given by a person for a share of the capital stock of the particular corporation or a holding corporation in connection with the demutualization, or for particular ownership rights in a mutual holding corporation in respect of the particular corporation, includes the transfer, surrender, alteration or dilution of ownership rights in the particular corporation, the cost of the share, or the particular ownership rights, to the person is deemed to be nil;

(e) where a holding corporation in connection with the demutualization acquires, in connection with the demutualization, a share of the capital stock of the particular corporation from the particular corporation and issues a share of its own capital stock to a stakeholder as consideration for the share of the capital stock of the particular corporation, the

cost to the holding corporation of the share of the capital stock of the particular corporation is deemed to be nil;

(f) where at any time a stakeholder receives a taxable conversion benefit and section 832.21 does not apply to the benefit,

i. the corporation that conferred the benefit is deemed to have paid a dividend at that time on shares of its capital stock equal to the value of the benefit, and

ii. subject to section 832.23, the benefit received by the stakeholder is deemed to be a dividend received by the stakeholder at that time;

(g) for the purposes of this Part, where a dividend is deemed by paragraph *f* or by subparagraph *c* of the second paragraph of section 832.23 to have been paid by a corporation not resident in Canada, that corporation is deemed in respect of the payment of the dividend to be a corporation resident in Canada that is a taxable Canadian corporation unless any amount is deducted under section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(h) for the purposes of sections 436, 440, 444, 450, 450.6 and 653 and Chapter I of Title I.1, the fair market value of rights to benefits that are to be received in connection with the demutualization is, before the time of the receipt, deemed to be nil; and

(i) where a person acquires an annuity contract in respect of which, because of the application of paragraph *f* of section 832.12, no benefit is considered to have been received for the purposes of sections 832.11 to 832.25, the cost of the annuity contract to the person is deemed to be nil and sections 92.11 to 92.19 do not apply to the annuity contract.

History: 2001, c. 53, s. 167; 2003, c. 9, s. 122; 2004, c. 8, s. 163; 2005, c. 1, s. 196; 2019, c. 14, s. 275.

Corresponding Federal Provision: 139.1(4).

Fair market value of ownership rights.

832.15. For the purposes of sections 436, 440, 444, 450, 450.6 and 653 and Chapter I of Title I.1, where an insurance corporation makes, at any time, a public announcement that it intends to seek approval for its demutualization, the fair market value of ownership rights in the corporation is deemed to be nil throughout the period that begins at that time and ends either at the time of the demutualization or, in the event that the corporation makes at any subsequent time a public announcement that it no longer intends to demutualize, at the subsequent time.

History: 2001, c. 53, s. 167; 2004, c. 8, s. 164.

Corresponding Federal Provision: 139.1(5).

Policy dividend.

832.16. Where the payment of a policy dividend by an insurance corporation is a taxable conversion benefit, the following rules apply:

(a) for the purposes of this Part, other than sections 832.11 to 832.25, the policy dividend is deemed not to be a policy dividend; and

(b) no amount in respect of the policy dividend may be included, either explicitly or implicitly, in the calculation of an amount deductible by the insurer for any taxation year under the second paragraph of section 152 or sections 840 and 841.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(8).

Payment and reception of a premium.

832.17. Where, in connection with the demutualization of an insurance corporation, a person would, if section 832.12 were read without reference to paragraphs *f* and *g* thereof and paragraph *a* of section 832.13 were read without reference to the application of section 965.0.17.3, receive a particular benefit that is a specified insurance benefit, the following rules apply:

(a) the insurance corporation that is obligated to pay benefits under the policy to which the particular benefit relates is deemed to have received a premium at the time of the demutualization in respect of that policy equal to the value of the particular benefit;

(b) for the purposes of paragraph *a*, to the extent that the obligations of a particular insurance corporation under the policy were assumed by another insurance corporation before the time of the demutualization, the particular corporation is deemed not to be obligated to pay benefits under the policy; and

(c) subject to subparagraph *a* of the second paragraph of section 832.22, where the person receives the particular benefit, the person is deemed to have paid, at the time of the demutualization, a premium in respect of the policy to which the benefit relates equal to the value of the particular benefit.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(9).

Cost of a taxable conversion benefit.

832.18. Where, in connection with the demutualization of an insurance corporation, a stakeholder receives a taxable conversion benefit, other than a specified insurance benefit, the stakeholder is deemed to have acquired the benefit at a cost equal to the value of the benefit.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(10).

No benefit to shareholder.

832.19. Sections 111 and 112 do not apply to a conversion benefit.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(11).

Application of rules relating to certain plans or funds.

832.20. Subject to section 832.21, for the purposes of the provisions of this Act, other than paragraph *c* of section 832.17, that relate to registered retirement savings plans, registered retirement income funds, retirement compensation arrangements, deferred profit sharing plans and superannuation or pension funds or plans, the receipt of a conversion benefit shall be considered to be neither a contribution to, nor a distribution from, such a plan, fund or arrangement.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(12).

Interest held by a trust in a life insurance policy.

832.21. A conversion benefit received because of an interest in a life insurance policy held by a trust governed by a registered retirement savings plan, registered retirement income fund, deferred profit sharing plan or superannuation or pension fund or plan is deemed to be received under the plan or fund, as the case may be, if it is received by any person other than the trust.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(14).

Insurance paid by employee.

832.22. The rules set out in the second paragraph apply where

(a) a stakeholder receives a conversion benefit because of the stakeholder's interest in a group insurance policy under which individuals have been insured in the course of or because of their employment;

(b) at all times before the payment of a premium described in subparagraph *c*, the full cost of a particular insurance coverage under the group insurance policy referred to in subparagraph *a* was borne by the individuals who were insured under the particular insurance coverage;

(c) the stakeholder referred to in subparagraph *a* pays a premium under the group insurance policy referred to in subparagraph *a* in respect of the particular insurance coverage referred to in subparagraph *b* or under another group insurance policy in respect of coverage that has replaced the particular insurance coverage; and

(d) either the premium referred to in subparagraph *c* is deemed by paragraph *c* of section 832.17 to have been paid, or it is reasonable to conclude that the purpose of the

premium is to apply, for the benefit of the individuals who are insured under the particular insurance coverage referred to in subparagraph *b* or the coverage that has replaced the particular insurance coverage, all or part of the value of the portion of the conversion benefit referred to in subparagraph *a* that can reasonably be considered to be in respect of the particular insurance coverage.

Rules applicable.

The rules to which the first paragraph refers are the following:

(a) for the purposes of section 43, the premium is deemed to be an amount paid by the individuals who are insured under the particular insurance coverage or the coverage that has replaced the particular insurance coverage, as the case may be, and not to be an amount paid by the stakeholder; and

(b) no amount may be deducted in respect of the premium in computing the stakeholder's income.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(15).

Transfer of a conversion benefit to an employee.

832.23. The rules set out in the second paragraph apply where

(a) a stakeholder receives a conversion benefit, in this section referred to as the "relevant conversion benefit", because of the interest of any person in an insurance policy;

(b) the stakeholder referred to in subparagraph *a* makes a payment of an amount, otherwise than by way of a transfer of a share that was received by the stakeholder as all or part of the relevant conversion benefit and that was not so received as a taxable conversion benefit, to a particular individual

i. who has received benefits under the insurance policy referred to in subparagraph *a*,

ii. who has, or had at any time, an absolute or contingent right to receive benefits under the insurance policy,

iii. for whose benefit insurance coverage was provided under the insurance policy, or

iv. who received the amount because an individual satisfied the condition in subparagraph i, ii or iii;

(c) it is reasonable to conclude that the purpose of the payment referred to in subparagraph *b* is to distribute an amount in respect of the relevant conversion benefit to the particular individual referred to in that subparagraph;

(d) either the main purpose of the insurance policy referred to in subparagraph *a* was to provide retirement benefits or insurance coverage to individuals in respect of their

employment with an employer, or all or part of the cost of insurance coverage under the insurance policy had been borne by individuals other than the stakeholder referred to in subparagraph *a*;

(e) section 832.21 does not apply to the relevant conversion benefit; and

(f) one of the following subparagraphs applies, namely,

i. the particular individual referred to in subparagraph *b* is resident in Canada at the time of the payment referred to in that subparagraph, the stakeholder referred to in subparagraph *a* is a person the taxable income of which is exempt from tax under this Part and the payment would, if this chapter were read without reference to this section, be included in computing the income of the particular individual,

ii. the payment referred to in subparagraph *b* is received before 7 December 1999, and the stakeholder referred to in subparagraph *a* elects by notifying the Minister in writing, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the relevant conversion benefit, or a later day acceptable to the Minister, that this section applies in respect of the payment,

iii. the payment referred to in subparagraph *b* is received after 6 December 1999 and the payment would, if this chapter were read without reference to this section, be included in computing the income of the particular individual referred to in that subparagraph and the stakeholder referred to in subparagraph *a* elects by notifying the Minister in writing, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the relevant conversion benefit, or a later day acceptable to the Minister, that this section applies in respect of the payment, or

iv. the payment referred to in subparagraph *b* is received after 6 December 1999 and the payment would, if this chapter were read without reference to this section, not be included in computing the income of the particular individual referred to in that subparagraph.

Rules applicable.

The rules to which the first paragraph refers are the following:

(a) subject to subparagraph *f*, no amount is, because of the making of the payment, deductible in computing the stakeholder's income;

(b) except for the purposes of this section and without affecting the consequences to the particular individual of any transaction or event that occurs after the time that the payment was made, the payment is deemed not to have been received by, or made payable to, the particular individual;

(c) the corporation that conferred the relevant conversion benefit is deemed to have paid to the particular individual at the time the payment was made, and the particular individual is deemed to have received at that time, a dividend on shares of the capital stock of the corporation equal to the amount of the payment;

(d) all obligations that would, but for this section, be imposed by this Part and the regulations on the corporation referred to in subparagraph *c* because of the payment of the dividend referred to in that subparagraph apply to the stakeholder as if the stakeholder were the corporation, and do not apply to the corporation;

(e) where the relevant conversion benefit is a taxable conversion benefit, except for the purposes of this section and the purpose of determining the obligations imposed by this Part and the regulations on the corporation because of the conferral of the relevant conversion benefit, the stakeholder is deemed, to the extent of the fair market value of the payment, not to have received the relevant conversion benefit; and

(f) where the relevant conversion benefit was a share received by the stakeholder, otherwise than as a taxable conversion benefit, the following rules apply:

i. where the share is, at the time of the payment, capital property held by the stakeholder, the amount of the payment shall, after that time, be added in computing the adjusted cost base to the stakeholder of the share,

ii. where subparagraph *i* does not apply and the share was capital property disposed of by the stakeholder before that time, the amount of the payment is deemed to be a capital loss of the stakeholder from the disposition of a property for the taxation year of the stakeholder in which the payment is made, and

iii. in any other case, subparagraph *a* shall not apply to the payment.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(16).

Transfert of benefits consisting of shares.

832.24. The rules set out in the second paragraph apply where

(a) because of the interest of any person in an insurance policy, a stakeholder receives a conversion benefit, other than a taxable conversion benefit, that consists of shares of the capital stock of a corporation;

(b) the stakeholder referred to in subparagraph *a* transfers some or all of the shares referred to in that subparagraph at any time to a particular individual

i. who has received benefits under the insurance policy referred to in subparagraph *a*,

ii. who has, or had at any time, an absolute or contingent right to receive benefits under the insurance policy,

iii. for whose benefit insurance coverage was provided under the insurance policy, or

iv. who received the shares because an individual satisfied the condition in subparagraph *i*, *ii* or *iii*;

(c) it is reasonable to conclude that the purpose of the transfer referred to in subparagraph *b* is to distribute all or any portion of the conversion benefit referred to in subparagraph *a* to the particular individual referred to in subparagraph *b*;

(d) either the main purpose of the insurance policy referred to in subparagraph *a* was to provide retirement benefits or insurance coverage to individuals in respect of their employment with an employer, or all or part of the cost of insurance coverage under the insurance policy had been borne by individuals other than the stakeholder referred to in subparagraph *a*;

(e) section 832.21 does not apply to the conversion benefit referred to in subparagraph *a*; and

(f) one of the following subparagraphs applies, namely,

i. the particular individual referred to in subparagraph *b* is resident in Canada at the time of the transfer referred to in that subparagraph, the stakeholder referred to in subparagraph *a* is a person the taxable income of which is exempt from tax under this Part and the amount of the transfer would, if this chapter were read without reference to this section, be included in computing the income of the particular individual,

ii. the transfer referred to in subparagraph *b* is made before 7 December 1999 and the stakeholder referred to in subparagraph *a* elects by notifying the Minister in writing, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the conversion benefit referred to in subparagraph *a*, or a later day acceptable to the Minister, that this section applies in respect of the transfer,

iii. the transfer referred to in subparagraph *b* is made after 6 December 1999, the amount of the transfer would, if this chapter were read without reference to this section, be included in computing the income of the particular individual referred to in that subparagraph and the stakeholder referred to in subparagraph *a* elects by notifying the Minister in writing, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the conversion benefit referred to in subparagraph *a*, or a later

day acceptable to the Minister, that this section applies in respect of the transfer, or

iv. the transfer referred to in subparagraph *b* is made after 6 December 1999 and the amount of the transfer would, if this chapter were read without reference to this section, not be included in computing the income of the particular individual referred to in that subparagraph.

Rules applicable.

The rules to which the first paragraph refers are the following:

(a) no amount is, because of the transfer, deductible in computing the stakeholder's income;

(b) except for the purposes of this section and without affecting the consequences to the particular individual of any transaction or event that occurs after the time that the transfer was made, the transfer is deemed not to have been made to the particular individual nor to represent an amount payable to the particular individual; and

(c) the cost of the shares to the particular individual is deemed to be nil.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.1(17).

Acquisition of control.

832.25. For the purposes of sections 6.2, 21.2 to 21.3.1, 83.0.3, 93.3.1 and 93.4, Division X.1 of Chapter III of Title III of Book III, sections 175.9, 222 to 230.0.0.2, 237 to 238.1, 308.0.1 to 308.6, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, sections 564.2 to 564.4.2 and 727 to 737, paragraph *f* of section 772.13 and section 776.1.5.6, control of an insurance corporation and each corporation controlled by it is deemed not to be acquired solely because of the acquisition of shares of the capital stock of the insurance corporation, in connection with the demutualization of the insurance corporation, by a particular corporation that at a particular time becomes a holding corporation in connection with the demutualization where, immediately after the particular time,

(a) the particular corporation is not controlled by any person or group of persons; and

(b) 95% of the fair market value of all the assets of the particular corporation is less than the aggregate of

- i. the amount of the particular corporation's money,
- ii. the amount of a deposit, with a financial institution, of such money standing to the credit of the particular corporation,
- iii. the fair market value of a bond, debenture, note or similar obligation that is owned by the particular corporation

that had, at the time of its acquisition, a maturity date of not more than 24 months after that time, or

iv. the fair market value of a share of the capital stock of the insurance corporation held by the particular corporation.

History: 2001, c. 53, s. 167; 2009, c. 5, s. 351.

Corresponding Federal Provision: 139.1(18).

Dividend deemed paid by a mutual holding corporation.

832.26. Where at any time a mutual holding corporation in respect of an insurance corporation distributes property to a policyholder of the insurance corporation, the mutual holding corporation is deemed to have paid, and the policyholder is deemed to have received from the mutual holding corporation, at that time, a dividend on shares of the capital stock of the mutual holding corporation, equal to the fair market value of the property.

History: 2001, c. 53, s. 167.

Corresponding Federal Provision: 139.2.

CHAPTER III RULES APPLICABLE TO LIFE INSURANCE CORPORATIONS

DIVISION I GENERALITIES AND DEFINITIONS

Life insurance corporations deemed public corporations.

833. Notwithstanding any other provision of this Part, a life insurance corporation resident in Canada is deemed to be a public corporation.

History: 1972, c. 23, s. 624; 1997, c. 3, s. 71.

Corresponding Federal Provision: 141(2).

Holding corporation deemed a public corporation.

833.1. A corporation resident in Canada that is a holding corporation, as defined in section 832.11, because of its acquisition of shares in connection with the demutualization, as defined in that section, of a life insurance corporation resident in Canada is deemed to be a public corporation if it meets the other requirements set out in subsections 3 and 4 of section 141 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2001, c. 53, s. 168.

Corresponding Federal Provision: 141(3).

Exclusion of taxable Canadian property.

833.2. For the purposes of section 1095, to the extent that that section refers to paragraph *c* of section 1094, a share of the capital stock of a corporation is deemed to be listed at any time on a designated stock exchange where

(a) the corporation is

i. a life insurance corporation referred to in subparagraph i of paragraph *a* of subsection 5 of section 141 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or

ii. a holding corporation, as defined in section 832.11, that is deemed by section 833.1 to be a public corporation at that time;

(b) no share of the capital stock of the corporation is listed on any stock exchange at that time; and

(c) that time is not later than six months after the time of the demutualization, as defined by section 832.11, of

i. the corporation, where the corporation is a life insurance corporation, and

ii. in any other case, the life insurance corporation in respect of which the corporation is a holding corporation.

History: 2001, c. 53, s. 168; 2010, c. 5, s. 79.

Corresponding Federal Provision: 141(5).

834. (Repealed).

History: 1972, c. 23, s. 625; 1978, c. 26, s. 148; 1984, c. 15, s. 186; 1995, c. 49, s. 185.

Definitions:

835. In this Title, sections 92.11 to 104, 130, 130.1, 135, 137 to 163.1, 176 to 179, 183, 428 to 451 and 570 and Part II,

(a) (subparagraph repealed);

“segregated fund”;

(b) “segregated fund” means a specified group of property the fair market value of which causes all or part of the insurer’s reserves to vary with respect to any life insurance policy;

(c) (subparagraph repealed);

(d) (subparagraph repealed);

“life insurance policy”;

(e) “life insurance policy” includes an annuity contract or a contract in respect of which all or part of the insurer’s reserves vary in amount depending upon the fair market value of the property of a segregated fund;

“life insurance policy in Canada”;

(e.1) “life insurance policy in Canada” means a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected;

“participating life insurance policy”;

(f) “participating life insurance policy” means a life insurance policy under which the holder is entitled to share, other than by way of an experience rating refund, in the profits of the insurer other than profits in respect of property in a segregated fund;

“segregated fund policy”;

(g) “segregated fund policy” means a life insurance policy under which the amount of benefits payable varies in accordance with the fair market value of the property of the segregated fund relating to the policy;

“policy loan”;

(h) “policy loan” means an amount advanced at a particular time by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy in Canada;

“interest”;

(i) “interest”, in relation to a policy loan, means the amount that must be paid in respect of the loan, in accordance with the terms and conditions of the policy in respect of which the loan is granted in order to maintain the policyholder’s interest in the policy;

“amount payable”;

(j) “amount payable”, in respect of a policy loan at a particular time, means the amount of the loan and the interest thereon that is outstanding at that time;

“segregated fund trust”;

(k) “segregated fund trust” means a trust referred to in section 851.2;

“surplus funds derived from operations”;

(l) “surplus funds derived from operations” of an insurer at the end of a particular taxation year means the amount by which

i. the aggregate of

(1) the total of the insurer’s income for each taxation year in the period beginning on the first day of its taxation year 1969 and ending at the end of the particular taxation year from all insurance businesses carried on by it,

(2) the total of all amounts each of which is a portion of a non-capital loss that was deemed under section 736.1, as it read for the taxation year 1977, to have been deductible in computing the insurer’s taxable income for a taxation year ending before 1 January 1977, and

(3) the total of all profits or gains made by the insurer in the period referred to in subparagraph 1 in respect of property not included in a segregated fund that was disposed of by the

insurer and used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that those profits or gains have been or are included in computing the insurer's income or loss for any taxation year in the period from carrying on an insurance business; exceeds

ii. the aggregate of

(1) the total of all the insurer's losses for each taxation year in the period referred to in subparagraph 1 of subparagraph i from all insurance businesses carried on by it,

(2) the total of all losses sustained by the insurer in the period referred to in subparagraph 1 of subparagraph i in respect of property not included in a segregated fund that was disposed of by the insurer and used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that those losses have been or are included in computing the insurer's income or loss for any taxation year in the period from carrying on an insurance business,

(3) the total of all taxes payable under this Part by the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i, except such portion thereof as would not have been payable by it if section 846, as it read before its repeal in its application to each of those years, had not been enacted,

(4) the total of all amounts determined in respect of the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i, under paragraph *a* of the description of F in the definition of "surplus funds derived from operations" in subsection 12 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than the amount so determined under paragraph 3 or that would be so determined but for the exception thereunder,

(5) the total of all income taxes payable under Parts I.3 and VI of the Income Tax Act by the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i,

(6) the total of all taxes payable under Part VI.1 by the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i,

(7) the total of all gifts made in the period referred to in subparagraph 1 of subparagraph i by the insurer to a qualified donee, and

(8) *(subparagraph repealed)*;

"base year";

(*m*) "base year" of a life insurer means the life insurer's taxation year that precedes its transition year;

"transition year";

(*n*) "transition year" of a life insurer means

i. in respect of the accounting standards adopted by the Accounting Standards Board and effective from 1 October 2006, the life insurer's first taxation year that begins after 30 September 2006,

ii. in respect of the International Financial Reporting Standards adopted by the Accounting Standards Board and effective from 1 January 2011, the life insurer's first taxation year that begins after 31 December 2010, or

iii. in respect of the amendment made to paragraph *b* of section 840R12 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) by subsection 1 of section 20 of the Regulation to amend the Regulation respecting the Taxation Act enacted by Order in Council 1105-2014 (2014, G.O. 2, 2812) and applicable from the taxation year 2012, the life insurer's taxation year 2012;

"reserve transition amount";

(*o*) "reserve transition amount" of a life insurer, in respect of a life insurance business carried on by it in Canada in its transition year, is the positive or negative amount determined by the formula

$A - B$;

"deposit accounting insurance policy";

(*p*) "deposit accounting insurance policy" means an insurance policy of a life insurer that, according to generally accepted accounting principles, is not an insurance contract for a taxation year of the life insurer;

"excluded policy";

(*q*) "excluded policy" means an insurance policy of a life insurer that would be a deposit accounting insurance policy for the life insurer's base year if the International Financial Reporting Standards adopted by the Accounting Standards Board and effective from 1 January 2011 applied for that base year;

"insurance";

(*r*) "insurance", of a risk, includes the reinsurance of the risk;

"designated foreign insurance business";

(*s*) "designated foreign insurance business", of a life insurer resident in Canada in a taxation year, means an insurance business that is carried on by the life insurer in a country other than Canada in the year unless more than 90% of the gross revenue from the business for the year from the insurance of risks (except risks ceded to a reinsurer) is in respect of the insurance of risks (other than specified

Canadian risks) of persons with whom the life insurer deals at arm's length; and

"specified Canadian risk".

(t) "specified Canadian risk" has the meaning assigned by paragraph *a.23* of subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)."

Interpretation.

In the formula in subparagraph *o* of the first paragraph,

(a) A is the maximum amount that the life insurer would be permitted to claim under paragraph *a* of section 840 as a reserve for its base year in respect of its life insurance policies in Canada if

- i. the generally accepted accounting principles that applied to the life insurer in valuing its assets and liabilities for its transition year had applied to it for its base year, and
- ii. the regulations made under paragraph *a* of section 840, as they read for the life insurer's transition year, applied to its base year; and

(b) B is the maximum amount that the life insurer is permitted to claim under paragraph *a* of section 840 as a reserve for its base year.

History: 1972, c. 23, s. 626; 1977, c. 26, s. 88; 1978, c. 26, s. 149; 1982, c. 5, s. 150; 1982, c. 52, s. 201; 1984, c. 15, s. 187; 1985, c. 25, s. 136; 1987, c. 67, s. 162; 1988, c. 18, s. 70; 1990, c. 59, s. 315; 1993, c. 16, s. 303; 1995, c. 49, s. 186; 1996, c. 39, s. 230; 1998, c. 16, s. 200; 1999, c. 83, s. 120; 2001, c. 53, s. 169; 2010, c. 25, s. 93; 2011, c. 34, s. 43; 2012, c. 8, s. 142; 2015, c. 24, s. 120; 2017, c. 1, s. 242; 2019, c. 14, s. 277; 2020, c. 16, s. 123.

Corresponding Federal Provision: 138.1(1) before (a), (a), (2) and (12).

Identical properties.

836. For the purposes of section 259, any property of a life insurer that would, but for this section, be identical to any other property of the insurer is deemed to be not identical to the other property unless both properties are designated insurance property of the insurer in respect of a life insurance business carried on in Canada or designated insurance property of the insurer in respect of an insurance business in Canada other than a life insurance business.

History: 1975, c. 22, s. 219; 1978, c. 26, s. 150; 1984, c. 15, s. 188; 1998, c. 16, s. 201.

Corresponding Federal Provision: 138(11.1).

Capital gain on pre-1969 depreciable property.

837. For the purposes of computing the capital gain from the disposition of any depreciable property acquired by a life

insurer before 1969, the capital cost of the property to the insurer is determined in the prescribed manner.

History: 1975, c. 22, s. 219.

Corresponding Federal Provision: 138(11.2).

Variation in "amortized cost" and "tax basis".

838. Where in a taxation year ending after 31 December 1968 but before 1 January 1978, an insurer carried on a life insurance business in Canada and an insurance business in a country other than Canada, the insurer did not make an election under section 825, as it read for that year, and the ratio of the value for the year of the insurer's specified Canadian assets to its Canadian investment fund for the year exceeded one, each of the amounts included or deducted as follows in respect of the year shall be multiplied by that ratio:

(a) under paragraph *c* or *d* of section 21.26 or paragraph *a* or *c* of section 21.27, in determining the amortized cost of a debt obligation to the insurer; or

(b) under paragraph *c* or *d* of the definition of "tax basis" in section 851.22.7 or paragraph *c* or *d* of section 851.22.8, in determining the tax basis of a debt obligation to the insurer.

Meaning of certain expressions.

For the purposes of this section, the expressions "specified Canadian assets", "Canadian investment fund for a taxation year" and "value for a taxation year" have the meaning assigned by the regulations.

History: 1977, c. 26, s. 89; 1978, c. 26, s. 151; 1990, c. 59, s. 316; 1996, c. 39, s. 231.

Corresponding Federal Provision: 138(13) and (14).

DIVISION 1.1 DESIGNATED FOREIGN INSURANCE BUSINESS

Computation of income — designated foreign insurance business.

838.1. The following rules apply in respect of a life insurer resident in Canada that has a designated foreign insurance business in a particular taxation year:

(a) for the purpose of computing the insurer's income or loss from carrying on an insurance business in Canada for the particular taxation year, the insurer's insurance business carried on in Canada is deemed to include the insurance of the specified Canadian risks that are insured as part of the designated foreign insurance business;

(b) for the purposes of paragraphs *d* to *e* of section 87, sections 818 and 825 and paragraph *a* of section 844, if, in the taxation year immediately preceding the particular taxation year, the designated foreign insurance business was not a designated foreign insurance business, the life insurer is deemed to have carried on the business in Canada in that

preceding taxation year and to have deducted, in computing its income for that year, the maximum amounts to which it would have been entitled under sections 140, 140.1 and 140.2, the second paragraph of section 152 and paragraphs *a* and *a.1* of section 840 in respect of the specified Canadian risks referred to in paragraph *a* if the designated foreign insurance business had been a designated foreign insurance business in that preceding taxation year; and

(c) for the purposes of section 157.6.1 and paragraph *a.2* of section 840,

i. the insurer is deemed to have carried on the business in Canada in the taxation year immediately preceding the particular taxation year, and

ii. the amounts that would have been prescribed in respect of the insurer for the purposes of paragraph *e.1* of section 87 and paragraph *a.1* of section 844 for that preceding year in respect of the insurance policies in respect of the specified Canadian risks referred to in paragraph *a* are deemed to have been included in computing its income for that preceding year.

History: 2020, c. 16, s. 124.

Insurance swaps.

838.2. For the purposes of Chapter II and this chapter, one or more risks insured by a life insurer resident in Canada, as part of an insurance business it carries on in a country other than Canada, that, but for this section, would not be specified Canadian risks, are deemed to be specified Canadian risks if those risks would be deemed to be specified Canadian risks under paragraph *a.21* of subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) if the insurer were a foreign affiliate of a taxpayer.

History: 2020, c. 16, s. 124.

Insurance swaps.

838.3. The rules set out in the second paragraph apply in respect of one or more arrangements or agreements if

(a) one or more risks insured by a particular life insurer resident in Canada are deemed, under section 838.2, to be specified Canadian risks; and

(b) those arrangements or agreements are in respect of risks described in subparagraph *a* and have been entered into by any of the following (in the second paragraph referred to as an “agreeing party”):

i. the particular life insurer,

ii. another life insurer resident in Canada that does not deal at arm’s length with the particular life insurer, and

iii. a partnership of which an insurer described in subparagraph i or ii is a member.

Rules applicable.

The rules to which the first paragraph refers, in respect of one or more arrangements or agreements, are as follows:

(a) to the extent that activities performed in connection with those arrangements or agreements can reasonably be considered to be performed for the purpose of obtaining the result described in subparagraph ii of paragraph *a.21* of subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), with the necessary modifications, those activities are deemed to be performed in connection with the insurance business that the life insurer referred to in subparagraph i or ii of subparagraph *b* of the first paragraph, as the case may be, carries on in Canada; and

(b) if the agreeing party is a life insurer resident in Canada, any income from the activities referred to in subparagraph *a* (including income that pertains to or is incident to those activities) is deemed to be income from carrying on the life insurer’s insurance business in Canada.

History: 2020, c. 16, s. 124.

Assignment of Canadian risks.

838.4. A life insurer that is resident in Canada for a taxation year must include, in computing its income or loss from carrying on its insurance business in Canada for the year, the amount it is required to include for the year in that computation, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), under subsection 2.5 of section 138 of that Act, except to the extent that that amount is already included in computing its income or loss from carrying on its insurance business in Canada under any of sections 838.1 to 838.3.

History: 2020, c. 16, s. 124.

Anti-avoidance rule.

838.5. For the purposes of Chapter II and this chapter, the following rules apply:

(a) a risk is deemed to be a specified Canadian risk that is insured as part of the carrying on of an insurance business in Canada by a particular life insurer resident in Canada if

i. the particular life insurer insured the risk as part of a transaction or series of transactions,

ii. the risk would not be a specified Canadian risk if this Act were read without reference to this section, and

iii. it can reasonably be concluded that one of the purposes of the transaction or series of transactions was to avoid

(1) having a designated foreign insurance business, or

(2) the application of any of sections 838.1 to 838.4 in respect of the risk; and

(b) if one or more arrangements or agreements in respect of the risk referred to in paragraph *a* have been entered into by any of the persons or partnerships described in subparagraphs i to iii of subparagraph *b* of the first paragraph of section 838.3 (in this paragraph referred to as an “agreeing party”), the following rules apply:

i. any activities performed in connection with those arrangements or agreements are deemed to be performed in connection with the insurance business that the life insurer referred to in subparagraph i or ii of that subparagraph *b*, as the case may be, carries on in Canada, and

ii. if the agreeing party is a life insurer resident in Canada, any income from the activities referred to in subparagraph i (including income that pertains to or is incident to those activities) is deemed to be income from carrying on the life insurer’s insurance business in Canada.

History: 2020, c. 16, s. 124.

DIVISION II DEDUCTIONS

Deductions allowed in computing insurer’s income.

839. A life insurer may deduct the amounts provided for in this division in computing his income derived, for a taxation year, from the carrying on of his life insurance business in Canada.

History: 1972, c. 23, s. 627.

Corresponding Federal Provision: 138(3) before (a).

Deductible reserves.

840. The amounts that a life insurer may deduct for the year include:

(a) any amount that the insurer claims as a policy reserve for the year in respect of its life insurance policies, not exceeding the aggregate of amounts that the insurer is allowed by regulation to deduct in respect of the policies;

(a.1) any amount that the insurer claims as a reserve for the year in respect of claims that were received by the insurer before the end of the year under its life insurance policies and that are unpaid at the end of the year, not exceeding the aggregate of amounts that the insurer is allowed by regulation to deduct in respect of the policies; and

(a.2) the amount included under paragraph *a.1* of section 844 in computing the insurer’s income for the preceding taxation year;

(b) *(paragraph repealed)*;

(c) *(paragraph repealed)*;

(d) *(paragraph repealed)*.

History: 1972, c. 23, s. 628; 1975, c. 22, s. 220; 1978, c. 26, s. 152; 1986, c. 19, s. 167; 1990, c. 59, s. 317; 1994, c. 22, s. 280; 1996, c. 39, s. 273; 1998, c. 16, s. 202; 2015, c. 24, s. 121.

Corresponding Federal Provision: 138(3)(a)(i), (ii) and (ii.1).

Other deductions.

841. A life insurer may also deduct:

(a) an amount equal to the amount by which the aggregate of the policy dividends (to the extent that they are not paid out of a segregated fund) that became payable by the insurer after its 1968 taxation year and before the end of the year under its participating life insurance policies exceeds the aggregate of the amounts deductible under this paragraph (including the amounts that were referred to in section 841.1, as it read before being repealed) in computing its income for the preceding taxation years;

(b) any amount that he might deduct in computing his income if the provisions of section 832 applied to a life insurance business in Canada, to the exclusion, however, of an amount credited under a participating life insurance;

(c) *(paragraph repealed)*;

(d) *(paragraph repealed)*;

(e) *(paragraph repealed)*;

(f) any policy loan granted by him in the year and after 1977;

(g) *(paragraph repealed)*;

(h) *(paragraph repealed)*.

History: 1972, c. 23, s. 629; 1973, c. 17, s. 96; 1978, c. 26, s. 153; 1984, c. 15, s. 189; 1986, c. 19, s. 168; 1990, c. 59, s. 318; 1991, c. 25, s. 95; 1996, c. 39, s. 232; 2001, c. 53, s. 170; 2015, c. 24, s. 122.

Corresponding Federal Provision: 138(3)(a)(ii) and (v), (e) and (f).

841.1. *(Repealed)*.

History: 1978, c. 26, s. 154; 1986, c. 19, s. 169; 2015, c. 24, s. 123.

Corresponding Federal Provision: 138(3.1).

Deductions not allowed.

842. Notwithstanding any other provision of this Act,

(a) an insurer shall not make any deduction under section 140 in computing its income for a taxation year from an insurance business in Canada in respect of a premium or

other consideration for a life insurance policy in Canada or an interest in such a policy;

(b) an insurer not resident in Canada or a life insurer resident in Canada that carries on part of its insurance business for a taxation year outside Canada shall not make any deduction under section 160 or 163 in computing its income for a taxation year from carrying on an insurance business in Canada, except to the extent provided for in section 842.1.

History: 1972, c. 23, s. 630; 1978, c. 26, s. 155; 1984, c. 15, s. 190; 1990, c. 59, s. 319.

Corresponding Federal Provision: 138(5)(a) and (b) before (i).

Deductions in respect of interest.

842.1. For the purposes of paragraph *b* of section 842, an insurer may claim a deduction under section 160 or 163 in computing its income for a taxation year from carrying on its insurance business in Canada, in respect of

(a) interest on borrowed money used to acquire designated insurance property for the year, or to acquire property for which designated insurance property for the year was substituted property, for the period in the year during which the designated insurance property was held by the insurer in relation to the business;

(b) interest on amounts payable for designated insurance property for the year in respect of the business; and

(c) interest on deposits received or other amounts held by the insurer that arose in connection with life insurance policies in Canada or with policies insuring Canadian risks;

(d) *(paragraph repealed)*.

History: 1978, c. 26, s. 155; 1984, c. 15, s. 190; 1998, c. 16, s. 203; 2004, c. 8, s. 165.

Corresponding Federal Provision: 138(5)(b).

Deductions not allowed.

843. In no case may a life insurer resident in Canada, in computing its income, make any deduction under section 146.1 in respect of foreign taxes attributable to its insurance business, nor make any deduction under sections 772.2 to 772.13 in computing its income in respect of foreign taxes attributable to income from its insurance business.

History: 1972, c. 23, s. 631; 1973, c. 17, s. 97; 1984, c. 15, s. 190; 1995, c. 63, s. 94.

Corresponding Federal Provision: 138(5.1) and (8).

843.1. *(Repealed)*.

History: 1990, c. 59, s. 320; 1996, c. 39, s. 233.

DIVISION III AMOUNTS TO BE INCLUDED

Amounts to be included in computing income.

844. An insurer shall, in computing its income for a taxation year from carrying on its life insurance business in Canada, include

(a) the aggregate of all amounts each of which is an amount that the insurer has deducted under paragraph *a* or *a.1* of section 840 as a reserve in computing its income for the preceding taxation year;

(a.1) the amount prescribed in respect of the insurer for the year in respect of its life insurance policies;

(b) *(paragraph repealed)*;

(c) *(paragraph repealed)*;

(d) every amount received by the insurer in the year as repayment of a policy loan or as interest on that loan.

History: 1972, c. 23, s. 632; 1973, c. 17, s. 98; 1978, c. 26, s. 156; 1990, c. 59, s. 321; 1996, c. 39, s. 234; 1998, c. 16, s. 204; 2000, c. 39, s. 103; 2001, c. 53, s. 171; 2015, c. 24, s. 124.

Corresponding Federal Provision: 138(4).

Life insurance policy.

844.0.1. For the purposes of sections 840, 841 and 844, a life insurance policy includes a benefit under a group life insurance policy or a group annuity contract.

History: 1998, c. 16, s. 205.

Corresponding Federal Provision: 138(4.01).

844.1. *(Repealed)*.

History: 1978, c. 26, s. 157; 2015, c. 24, s. 125.

Corresponding Federal Provision: 138(4.1) and (4.2).

844.2. *(Repealed)*.

History: 1987, c. 67, s. 163; 1994, c. 22, s. 281; 2015, c. 24, s. 125.

Corresponding Federal Provision: 138(4.3).

Amounts to be included.

844.3. Where, for a period of time in a taxation year, a life insurer owned land described in any of subparagraphs *a*, *c* and *d* of the second paragraph or a right therein or had a right in a building described in subparagraph *b* of that paragraph, the life insurer shall, where the land, building or right was designated insurance property of the insurer for the year, or property used or held by it in the year in the course of carrying on an insurance business in Canada, include in computing its income for the year the aggregate of all amounts each of which is the amount prescribed in respect of the cost or capital cost to it, as the case may be, of the land, building or right for the period, and the amount prescribed must, at the end of the period, be included in computing

(a) the cost to the insurer of the land or right therein, where such land or right is property described in subparagraph *a* of the second paragraph; or

(b) the capital cost to the insurer of the right in the building described in subparagraph *b* of the second paragraph, where the land, building or right therein is property described in any of subparagraphs *b* to *d* of that paragraph.

Interpretation.

The land, right in land or right in a building to which the first paragraph refers is, as the case may be,

(a) land, other than land described in subparagraph *c* or *d* or a right therein that was not held primarily for the purpose of gaining or producing income from the land for the period referred to in the first paragraph;

(b) a right in a building that was being constructed, renovated or altered;

(c) land adjacent to the building described in subparagraph *b* or a right in such land; or

(d) land contiguous to the land described in subparagraph *c*, or a right in such contiguous land that was used or was intended to be used for a parking area, driveway, yard, garden or other use necessary for the use or intended use of the building described in subparagraph *b*.

History: 1990, c. 59, s. 322; 1998, c. 16, s. 206; 2020, c. 16, s. 125.

Corresponding Federal Provision: 138(4.4).

Application of s. 844.3.

844.4. Where a life insurer has transferred or lent property, directly or indirectly in any manner whatever, to a person or partnership, in this section referred to as the "transferee", that is affiliated with the insurer or a person or partnership that does not deal at arm's length with the insurer and that property, property substituted for that property or property the acquisition of which was assisted by the transfer or loan of that property was property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 of the transferee for a period of time in a taxation year of the insurer, the following rules apply:

(a) section 844.3 shall apply to the insurer to include an amount in computing its income for the year on the assumption that the property was owned by the insurer for the period, was property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 of the insurer and was used or held by it in the year in the course of carrying on an insurance business in Canada;

(b) an amount included in the insurer's income for the year under section 844.3 by reason of the application of this section shall,

i. where subparagraph ii does not apply, be added by the insurer in computing the cost to it of shares of the capital stock of or a right in the transferee at the end of the year, or

ii. where the insurer and the transferee make a valid election under subsection 4.5 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the property, be added in computing

(1) where the property is land, or a right therein, described in subparagraph *a* of the second paragraph of section 844.3 of the transferee, the cost to the transferee of the land or the right therein;

(2) where the property is land, a building or a right therein described in any of subparagraphs *b* to *d* of the second paragraph of section 844.3, the capital cost to the transferee of the right in the building described in subparagraph *b* of the said paragraph.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 4.5 of section 138 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1990, c. 59, s. 322; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 1998, c. 16, s. 207; 2009, c. 5, s. 352; 2020, c. 16, s. 188; 2020, c. 16, s. 188.

Corresponding Federal Provision: 138(4.5).

Time of completion.

844.5. For the purposes of section 844.3, the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered.

History: 1990, c. 59, s. 322.

Corresponding Federal Provision: 138(4.6).

DIVISION III.1 TRANSITIONAL RULES

Transition year income inclusion.

844.6. There must be included in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada in the transition year, the positive amount of the life insurer's reserve transition amount in respect of that life insurance business.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(16).

Transition year income deduction.

844.7. If a life insurer's reserve transition amount in respect of a life insurance business carried on by it in Canada is negative, the reserve transition amount, expressed as a positive amount, must be deducted in computing the life insurer's income for its transition year from the life insurance business.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(17).

Transition year income inclusion reversal.

844.8. If an amount has been included under section 844.6 in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada, there must be deducted in computing the life insurer's income, for each particular taxation year of the life insurer that ends after the beginning of the transition year, from that life insurance business, the amount determined by the formula

$$A \times B/1,825.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount included under section 844.6 in computing the life insurer's income for its transition year from that life insurance business; and

(b) B is the number of days in the particular taxation year that are before the day that is 1,825 days after the first day of the transition year.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(18).

Transition year income deduction reversal.

844.9. If an amount has been deducted under section 844.7 in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada, there must be included in computing the life insurer's income, for each particular taxation year of the life insurer that ends after the beginning of the transition year, from that life insurance business, the amount determined by the formula

$$A \times B/1,825.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount deducted under section 844.7 in computing the life insurer's income for its transition year from that life insurance business; and

(b) B is the number of days in the particular taxation year that are before the day that is 1,825 days after the first day of the transition year.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(19).

IFRS transition — reversals.

844.9.1. In applying sections 844.8 and 844.9 to a life insurer for a taxation year in respect of the International Financial Reporting Standards adopted by the Accounting Standards Board and effective from 1 January 2011, the following rules apply:

(a) subparagraph *b* of the second paragraph of section 835 is to be read as follows:

“(b) B is the maximum amount that the life insurer would be permitted to claim under paragraph *a* of section 840 as a reserve for its base year if no account were taken of the life insurer's excluded policies.”;

(b) the portion of the first paragraph of sections 844.8 and 844.9 before the formula is to be read as if “that ends after the beginning of the transition year” were replaced by “that ends at least two years after the beginning of the transition year”;

(c) subparagraph *b* of the second paragraph of sections 844.8 and 844.9 is to be read as if “the first day of the transition year” were replaced by “the first day of the first year that ends at least two years after the beginning of the transition year”.

History: 2011, c. 34, s. 44.

Corresponding Federal Provision: 138(17.1).

Winding-up.

844.10. If a life insurer has, in a winding-up to which section 556 has applied, been wound up into another corporation (in this section referred to as the “parent”), and immediately after the winding-up the parent carries on a life insurance business, in applying sections 844.8 and 844.9 in computing the income of the life insurer and of the parent for the particular taxation years that end on or after the first day (in this section referred to as the “start day”) on which assets of the life insurer were distributed to the parent on the winding-up, the following rules apply:

(a) the parent is, on and after the start day, deemed to be the same corporation as and a continuation of the life insurer in respect of

i. any amount included under section 844.6 or deducted under section 844.7 in computing the life insurer's income from a life insurance business for its transition year,

ii. any amount deducted under section 844.8 or included under section 844.9 in computing the life insurer's income

from a life insurance business for a taxation year of the life insurer that begins before the start day, and

iii. any amount that would—in the absence of this section and if the life insurer existed and carried on a life insurance business on each day that is the start day or a subsequent day and on which the parent carries on a life insurance business—be required to be deducted under section 844.8 or included under section 844.9, in respect of any of those days, in computing the life insurer’s income from a life insurance business; and

(b) the life insurer is, in respect of each of its particular taxation years, to determine the number of days that is referred to in subparagraph *b* of the second paragraph of sections 844.8 and 844.9 without reference to the start day and days after the start day.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(20).

Transfer of life insurance business.

844.11. The rules in section 844.12 apply if, at any time, a life insurer (in this section and section 844.12 referred to as the “transferor”) transfers, to a corporation (in this section and section 844.12 referred to as the “transferee”) that is related to the transferor, property in respect of a life insurance business carried on by the transferor in Canada (in this section and section 844.12 referred to as the “transferred business”) and

(a) section 832.3 or 832.9 applies to the transfer; or

(b) section 518 applies to the transfer, the transfer includes all or substantially all of the property and liabilities of the transferred business and, immediately after the transfer, the transferee carries on a life insurance business.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(22).

Rules applicable.

844.12. The rules to which section 844.11 refers and that apply to the transfer of property at any time are as follows:

(a) the transferee is, at and after that time, deemed to be the same corporation as and a continuation of the transferor in respect of

i. any amount included under section 844.6 or deducted under section 844.7 in computing the transferor’s income for its transition year that can reasonably be attributed to the transferred business,

ii. any amount deducted under section 844.8 or included under section 844.9 in computing the transferor’s income for a taxation year of the transferor that begins before that time that can reasonably be attributed to the transferred business, and

iii. any amount that would—in the absence of this section and if the transferor existed and carried on a life insurance business on each day that includes that time or is a subsequent day and on which the transferee carries on a life insurance business—be required to be deducted under section 844.8 or included under section 844.9, in respect of any of those days, in computing the transferor’s income that can reasonably be attributed to the transferred business; and

(b) for the purpose of determining, in respect of the day that includes that time or any subsequent day, any amount that is required to be deducted under section 844.8 or included under section 844.9 in computing the transferor’s income for each particular taxation year from the transferred business, the amount referred to in subparagraph *a* of the second paragraph of those sections is deemed to be nil.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(23).

Ceasing to carry on business.

844.13. If at any time a life insurer ceases (otherwise than as a result of an amalgamation within the meaning of subsections 1 and 2 of section 544) to carry on all or substantially all of a life insurance business (in this section referred to as the “discontinued business”), and neither section 844.10 nor 844.11 applies, the following rules apply:

(a) there must be deducted, in computing the life insurer’s income from the discontinued business for the life insurer’s taxation year that includes the time that is immediately before that time, the amount determined by the formula

$A - B$; and

(b) there must be included, in computing the life insurer’s income from the discontinued business for the life insurer’s taxation year that includes the time that is immediately before that time, the amount determined by the formula

$C - D$.

Interpretation.

In the formulas in the first paragraph,

(a) *A* is the amount included under section 844.6 in computing the life insurer’s income from the discontinued business for its transition year;

(b) *B* is the aggregate of all amounts each of which is an amount deducted under section 844.8 in computing the life insurer’s income from the discontinued business for a taxation year that began before that time;

(c) *C* is the amount deducted under section 844.7 in computing the life insurer’s income from the discontinued business for its transition year; and

(d) D is the aggregate of all amounts each of which is an amount included under section 844.9 in computing the life insurer's income from the discontinued business for a taxation year that began before that time.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(24).

Ceasing to exist.

844.14. If at any time a life insurer that carried on a life insurance business ceases to exist (otherwise than as a result of a winding-up described in section 844.10 or of an amalgamation within the meaning of subsections 1 and 2 of section 544), for the purposes of section 844.13, the life insurer is deemed to have ceased to carry on the life insurance business at the time (determined without reference to this section) at which the life insurer ceased to carry on the life insurance business or, if it is earlier, the time that is immediately before the end of the last taxation year of the life insurer that ended at or before the time at which the life insurer ceased to exist.

History: 2010, c. 25, s. 94.

Corresponding Federal Provision: 138(25).

Policy reserve transition — application rules.

844.15. In applying sections 844.6 to 844.9 to a life insurer for a taxation year,

(a) if the application of one or more of those sections 844.6 to 844.9 is in respect of the amendment made to paragraph *b* of section 840R12 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) by subsection 1 of section 20 of the Regulation to amend the Regulation respecting the Taxation Act enacted by Order in Council 1105-2014 (2014, G.O. 2, 2812) and applicable from the life insurer's taxation year 2012, the life insurer's reserve transition amount for its transition year in respect of that amendment is to be determined as if subparagraph *a* of the second paragraph of section 835 were read as follows:

“(a) A is the maximum amount that the life insurer would be permitted to claim under paragraph *a* of section 840 as a reserve for its base year in respect of its life insurance policies in Canada if paragraph *b* of section 840R12 of the Regulation respecting the Taxation Act were read as it applied to the life insurer's taxation year 2012; and”;

(b) if one or more of those sections 844.6 to 844.9 applies to the same taxation year in respect of both the amendment referred to in paragraph *a* and the International Financial Reporting Standards adopted by the Accounting Standards Board and effective as of 1 January 2011, for the purpose of applying those sections 844.6 to 844.9 in respect of a transition year described in subparagraph *ii* of subparagraph *n* of the first paragraph of section 835, subparagraph *ii* of subparagraph *a* of the second paragraph of section 835 is to be read as follows:

“ii. the regulations made under paragraph *a* of section 840 applied to the life insurer for its base year, as they read in respect of its transition year and determined without reference to the amendment made to paragraph *b* of section 840R12 of the Regulation respecting the Taxation Act by subsection 1 of section 20 of the Regulation to amend the Regulation respecting the Taxation Act enacted by Order in Council 1105-2014 (2014, G.O. 2, 2812) and applicable from the life insurer's taxation year 2012; and”;

(c) if the life insurer has more than one transition year for the same taxation year, the following rules apply:

i. the computation of the reserve transition amount for the transition year, and the requirement to include, or right to deduct, under those sections 844.6 to 844.9 an amount in respect of that reserve transition amount, are to be determined, for each of those transition years, as if that transition year were the only transition year of the life insurer for that taxation year, and

ii. for the purposes of those sections 844.6 to 844.9, a reference to a transition year is a reference to each of those transition years.

History: 2017, c. 1, s. 243.

Corresponding Federal Provision: 138(26).

DIVISION IV COMPUTATION OF TAXABLE INCOME OF A LIFE INSURER

Deduction of taxable dividends received from a taxable Canadian corporation.

845. A life insurer shall not claim any deduction under sections 738 to 745 in computing its taxable income for a taxation year.

Deductions in respect of dividends.

It may, however, deduct in computing its taxable income, except as otherwise provided by sections 738 to 745, the aggregate of taxable dividends, other than dividends on term preferred shares acquired by it in the ordinary course of carrying on its business, included in computing its income for the year and received by it in the year from a taxable Canadian corporation.

History: 1972, c. 23, s. 633; 1973, c. 17, s. 99; 1978, c. 26, s. 158; 1980, c. 13, s. 70; 1982, c. 5, s. 151; 1990, c. 59, s. 323; 1997, c. 3, s. 71.

Corresponding Federal Provision: 138(6).

846. *(Repealed).*

History: 1972, c. 23, s. 634; 1978, c. 26, s. 159; 1982, c. 5, s. 152; 1998, c. 16, s. 208.

847. *(Repealed).*

History: 1972, c. 23, s. 635; 1978, c. 26, s. 160; 1998, c. 16, s. 208.

848. *(Repealed).*

History: 1972, c. 23, s. 636; 1978, c. 26, s. 161; 1998, c. 16, s. 208.

849. *(Repealed).*

History: 1972, c. 23, s. 637; 1978, c. 26, s. 162; 1980, c. 13, s. 71; 1997, c. 14, s. 146; 1998, c. 16, s. 208.

850. *(Repealed).*

History: 1972, c. 23, s. 638; 1978, c. 26, s. 163; 1995, c. 1, s. 93; 1995, c. 49, s. 187; 1997, c. 14, s. 147; 1998, c. 16, s. 208.

851. *(Repealed).*

History: 1972, c. 23, s. 639; 1978, c. 26, s. 164.

CHAPTER IV RULES APPLICABLE TO SEGREGATED FUNDS

DIVISION I GENERALITIES

Where this chapter applies.

851.1. For the purposes of this Part, the rules provided in this chapter apply where all or any portion of an insurer's reserves in respect of life insurance policies vary depending on the fair market value of a specified group of properties.

History: 1978, c. 26, s. 165.

Corresponding Federal Provision: 138.1(1) before (a).

Rules relating to segregated funds.

851.2. A trust is deemed to be created in respect of an insurer's segregated fund on the day that the segregated fund is created or, if it is later, the day on which the insurer's taxation year 1978 commences, and to continue in existence throughout the period during which the fund determines any portion of the benefits payable under its segregated fund policies.

Property of the fund deemed to be property of the trust.

Property of the fund and any income accruing on that property are deemed to be the property and income of that trust and the insurer is deemed to be the trustee having control of the property of the trust.

History: 1978, c. 26, s. 165; 2017, c. 1, s. 244.

Corresponding Federal Provision: 138.1(1)(a), (b) and (c)(i).

Where the taxable income of a segregated fund trust is deemed to be an amount payable to the beneficiaries.

851.3. For the purposes of paragraph *a* of section 657 and sections 652 and 663, the taxable income of a segregated fund trust for a taxation year is deemed to be an amount that has become payable in the year to the beneficiaries under the trust and the amount payable to each beneficiary is equal to

the amount determined in conformity with the terms and conditions of the segregated fund policy relating to the trust.

History: 1978, c. 26, s. 165; 1990, c. 59, s. 324; 2020, c. 16, s. 126.

Corresponding Federal Provision: 138.1(1)(f).

Non-capital loss before 2018 deemed to be nil.

851.3.1. For the purpose of computing the taxable income of a segregated fund trust for a taxation year that begins after 31 December 2017, a non-capital loss of the trust incurred in a taxation year that begins before 1 January 2018 is deemed to be nil.

History: 2020, c. 16, s. 127.

Terms and conditions of the trust arrangement.

851.4. The expression "terms and conditions of the trust arrangement" in sections 646 to 681 is deemed to include the terms and conditions of a segregated fund policy and the trustee is deemed to have designated the amounts referred to in the said sections in accordance with those terms and conditions.

History: 1978, c. 26, s. 165; 2017, c. 1, s. 245.

Corresponding Federal Provision: 138.1(1)(k).

DIVISION II RULES RELATING TO AN INSURER

Deemed residence in respect of segregated fund property and other property.

851.5. Where property of a segregated fund trust is used or held by an insurer in the course of carrying on the insurer's life insurance business in Canada, the insurer is deemed to be a resident of Canada in respect of that property and a non-resident of Canada in respect of the other property of the trust.

History: 1978, c. 26, s. 165; 1997, c. 14, s. 148.

Corresponding Federal Provision: 138.1(1)(c)(ii) and (iii).

Deemed interest of an insurer in a segregated fund trust.

851.6. Where, at a particular time, a segregated fund trust has property that was not funded with premiums paid under a segregated fund policy relating to the trust, the insurer is deemed to have an interest in the trust that is not respect of any particular property or separate source of income.

Deemed cost of such interest.

The cost at a particular time of that interest to an insurer is deemed to be equal to the aggregate of the amount that would be the adjusted cost base, to the insurer, of the property described in the first paragraph at that time that it allocated to the segregated fund prior to 1978 if that interest had been a capital property at all times prior to 1978 and if the rules provided in this chapter had applied to the taxation years 1972 to 1977, and the fair market value, at the time the insurer last allocated it to the fund, of the other property

described in the said paragraph at that particular time that the insurer allocated to the segregated fund after 1977.

History: 1978, c. 26, s. 165.

Corresponding Federal Provision: 138.1(1)(d).

Where any portion of the benefits payable by an insurer under a segregated fund policy varies.

851.7. Where any portion of the benefits payable by an insurer under a segregated fund policy varies with the fair market value of the property of the segregated fund at the time the benefits become payable, the obligations of the insurer in respect of that portion of the benefits are deemed to be obligations of the trustee of the segregated fund trust relating to that policy.

History: 1978, c. 26, s. 165.

Corresponding Federal Provision: 138.1(1)(j).

Deemed payment by an insurer in accordance with the terms and conditions of a segregated fund policy.

851.8. Where, at a particular time, the fair market value of property transferred by an insurer to a segregated fund results in both an increase at that time in the portion of the insurer's reserves in respect of a segregated fund policy that vary with the fair market value of the property of the fund and a decrease in the portion of those reserves that do not so vary, the amount of that increase is deemed, for the purposes of computing the income of the insurer, to be a payment made by it in accordance with the terms and conditions of the policy at that time.

History: 1978, c. 26, s. 165.

Corresponding Federal Provision: 138.1(1)(g)(iii).

Deemed premium received by an insurer.

851.9. Where, at a particular time, the fair market value of property from a segregated fund transferred by an insurer results in both a decrease, at that time, in that portion of the insurer's reserves in respect of a segregated fund policy that vary with the fair market value of the property of the fund and an increase in the portion of those reserves that do not so vary, the amount of that increase is deemed, for the purposes of computing the income of the insurer, to be a premium received by it at that time.

History: 1978, c. 26, s. 165.

Corresponding Federal Provision: 138.1(1)(h).

Rules applicable where an insurer holds property at the end of its taxation year 1977 in connection with a segregated funds.

851.10. Where an insurer holds property at the end of its taxation year 1977 in connection with a segregated fund, the following rules apply:

(a) the insurer is deemed to have disposed of the property on the day referred to in section 851.2 for proceeds equal to its adjusted cost base to the insurer on that day and the

segregated fund trust is deemed to have acquired that property on the same day at a cost equal to those proceeds;

(b) the transaction referred to in paragraph *a* is deemed to be made between persons not dealing at arm's length; and

(c) the insurer is deemed, for the purposes of computing its income for the taxation year 1978, to have paid in the year to its policyholders in satisfaction of their rights under their segregated fund policies, an amount equal to that portion of the amount deducted under paragraph *a* of section 840 in computing its income for the taxation year 1977 that is in respect of segregated fund policies.

History: 1978, c. 26, s. 165; 1980, c. 13, s. 72; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(2).

DIVISION III RULES RELATING TO POLICYHOLDERS

Deemed interest of a policyholder in a segregated fund trust.

851.11. Where, at a particular time, a segregated fund trust has property that was funded with a portion of the premiums paid before that time under a segregated fund policy relating to the trust, that portion of the premiums is deemed not to have been paid in respect of those premiums and the holder of such a policy is deemed to have an interest in the trust that is not in respect of any particular property or any separate source of income.

Deemed cost of such interest.

The cost of that interest to the policyholder at a particular time is deemed to be equal to the aggregate of the amount that would be the adjusted cost base on 31 December 1977, to the insurer, of the property described in the first paragraph if that interest had been a capital property at all times prior to 1978 and if the rules provided in this chapter, but for the words "capital loss" and "loss" in section 851.16, had applied to the taxation years 1972 to 1977, and the portion, other than that representing the costs of acquisition, of the premiums described in the said paragraph and paid before that time but after the insurer's taxation year 1977, that the insurer has used or must use to fund the property of the segregated fund.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(1)(e).

Adjusted cost base to a segregated fund policyholder of interest in the segregated fund relating to that policy.

851.12. For the purposes of computing the adjusted cost base to the holder of a segregated fund policy of his interest in the segregated fund relating to that policy, the amount of the increase referred to in section 851.8 in respect of that policy must, at the particular time referred to in the said section, be added to the cost to him of that interest.

Presumption.

For the purposes of section 976, the amount of that increase is deemed to be the proceeds of the disposition of an interest in the policy that the holder becomes entitled to receive at that time.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(1)(g).

Deemed proceeds of the disposition of an interest in a segregated fund trust.

851.13. In the case referred to in section 851.7, any amount that the holder of the segregated fund policy receives or becomes entitled to receive at a particular time in conformity with an obligation referred to in the said section is deemed to be the proceeds of the disposition of an interest in the segregated fund trust relating to that policy.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(1)(j).

Deemed capital loss of a segregated fund trust; benefits payable to policyholder reduced.

851.14. Where, at a particular time, the holder of a segregated fund policy disposes of all or a portion of his interest in the segregated fund trust relating to that policy, the trust is deemed to sustain a capital loss that is equal to the amount computed under section 851.15 and that, for the purposes of section 851.16, reduces by that amount the benefits payable to the policyholder under that policy.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(1)(i) before (i).

Amount referred to in s. 851.14.

851.15. The amount referred to in section 851.14 is equal to that proportion of the amount by which the acquisition fee of the segregated fund policy exceeds the aggregate of the amounts determined under the said section in respect of the policy before the particular time, that the fair market value, at the particular time, of the interest disposed of is of the fair market value, immediately before the particular time, of the policyholder's interest in the segregated fund trust relating to that policy.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(1)(i)(i) and (ii).

Capital gain or capital loss of a segregated fund trust deemed that of the holder of a segregated fund policy.

851.16. A capital gain or capital loss of a segregated fund trust from the disposition of any property is deemed to be a capital gain or a capital loss, as the case may be, of a holder of a segregated fund policy relating to the trust or of another beneficiary of the trust to the extent that the benefits payable to that policyholder under his policy or the interest of that

other beneficiary in the trust are affected by that gain or that loss.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(3).

851.16.1. (Repealed).

History: 2003, c. 2, s. 253; 2017, c. 1, s. 246.

851.16.2. (Repealed).

History: 2003, c. 2, s. 253; 2017, c. 1, s. 246.

"acquisition fee".

851.17. For the purposes of this chapter, the expression "acquisition fee" means the amount by which the aggregate of the amounts described in section 851.18 exceeds the aggregate of the portions of each of those amounts that may reasonably be considered to be in respect of an interest in the segregated fund that was disposed of before 1978.

History: 1978, c. 26, s. 165.

Corresponding Federal Provision: 138.1(6)(d).

Amounts referred to in 851.17.

851.18. The amounts referred to in section 851.17 are the following:

(a) the amount of that portion of a premium under a segregated fund policy that cannot reasonably be regarded as an amount required to fund a mortality or maturity benefit or that is not included in the segregated fund relating to that policy;

(b) the amount of a transfer from a segregated fund that cannot reasonably be regarded as an amount required to fund a mortality or maturity benefit, except annual administration fees;

(c) the amount of the decrease in the proceeds payable to the holder of a segregated fund policy on the surrender or partial surrender of the policy to the extent that that amount may reasonably be regarded as a surrender fee.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(6)(a) to (c).

Provisions not applicable.

851.19. Divisions I, II and IV and sections 851.11 to 851.18 do not apply to the holder of a segregated fund policy that is issued or effected as a registered retirement savings plan, registered retirement income fund or tax-free savings account or that is issued under a registered pension plan or pooled registered pension plan.

History: 1978, c. 26, s. 165; 1991, c. 25, s. 96; 1994, c. 22, s. 282; 1996, c. 39, s. 273; 2001, c. 53, s. 172; 2009, c. 15, s. 162; 2015, c. 21, s. 330.

Corresponding Federal Provision: 138.1(7).

DIVISION IV CAPITAL PROPERTY OF A SEGREGATED FUND TRUST

Withdrawal of all or part of interest in policy.

851.20. If, at a particular time, the holder of a segregated fund policy withdraws all or part of the holder's interest in that policy, and the trustee of the segregated fund trust relating to that policy makes, in relation to the withdrawal, a valid election under subsection 4 of section 138.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of a capital property of the trust, the capital property is deemed to have been disposed of on the date designated by the trustee in respect of the capital property in the election for proceeds of disposition equal to the amount designated by the trustee in respect of the capital property in the election in accordance with that subsection 4, which amount is to be reduced to the greater of or increased to the lesser of, as the case may be, the fair market value of the capital property on the date of the disposition and the adjusted cost base to the trust of the capital property on that date, and to have been reacquired by the trust immediately after at a cost equal to those proceeds.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 4 of section 138.1 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273; 2001, c. 53, s. 173; 2009, c. 5, s. 353.

Corresponding Federal Provision: 138.1(4)(a) to (c).

Rules applicable.

851.21. If the trustee of a segregated fund trust has made an election referred to in the first paragraph of section 851.20, the following rules apply:

(a) the trustee must allocate to any policyholder who withdraws, at the particular time referred to in that first paragraph, all or part of his interest in a segregated fund policy relating to the trust, the amount of any capital gain or capital loss resulting from the disposition referred to in that first paragraph to the extent that the amount of benefits payable to that policyholder under his policy at that time is affected by the capital gain or capital loss in respect of property held by the trust at that time;

(b) the allocation mentioned in paragraph *a* is deemed to have been made immediately before the withdrawal referred to in that paragraph;

(c) any capital gain that is not allocated in accordance with paragraph *a* is deemed to be allocated in accordance with the terms and conditions of the segregated fund policy; and

(d) any capital loss that is not allocated in accordance with paragraph *a* is deemed to be a non-deductible loss for each policyholder to the extent that the benefits payable under his policy would be affected by that loss.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273; 2009, c. 5, s. 354.

Corresponding Federal Provision: 138.1(4)(d) to (g).

Adjusted cost base of each capital property of a segregated fund trust.

851.22. At any particular time, the adjusted cost base of each capital property of a segregated fund trust is deemed to be the amount by which the adjusted cost base of the property to the trust immediately before that time exceeds the aggregate of amounts each of which is an amount in respect of the disposition by the holder of a segregated fund policy relating to the trust of all or part of his interest in the trust at that time equal to that proportion of the amount by which the adjusted cost base to the policyholder of his interest in the trust at that time exceeds his proceeds of the disposition of such interest that the fair market value of the capital property at that time is of the fair market value of all capital property of the trust at the same time.

History: 1978, c. 26, s. 165; 1996, c. 39, s. 273.

Corresponding Federal Provision: 138.1(5).

DIVISION V REORGANIZATION OF SEGREGATED FUND TRUSTS

Qualifying transfer.

851.22.0.1. In this division, “qualifying transfer” means a transfer at any time (in this division referred to as the “transfer time”) of all of the property that, immediately before the transfer time, was property of a segregated fund trust (in this division referred to as the “transferor” or the “funds”) to another segregated fund trust (in this division referred to as the “transferee” or the “funds”), if

(a) every person (in this division referred to as a “beneficiary”) that, immediately before the transfer time, had an interest in the transferor has ceased to be a beneficiary of the transferor at the transfer time and has received no consideration for the interest other than an interest in the transferee; and

(b) the trustee of the funds makes a valid election under paragraph *d* of subsection 1 of section 138.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer.

Additional rule.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *d* of subsection 1 of section 138.2 of the Income Tax Act.

History: 2020, c. 16, s. 128.

Rules applicable.

851.22.0.2. The following rules apply in respect of a qualifying transfer:

(a) the last taxation year of the funds that began before the transfer time is deemed to have ended at the transfer time and a new taxation year of the transferee is deemed to have begun immediately after the transfer time;

(b) no amount in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss of a fund for a taxation year that began before the transfer time is deductible in computing the taxable income of any of the funds for a taxation year that begins after the transfer time;

(c) each beneficiary's interest in the transferor is deemed to have been disposed of at the transfer time for proceeds of disposition, and each beneficiary's interest in the transferee received in the qualifying transfer is deemed to have been acquired at a cost, equal to the cost amount to the beneficiary of the interest in the transferor immediately before the transfer time;

(d) any amount determined under sections 851.17 and 851.18 in respect of a policyholder's interest in the transferor is deemed

i. to have been charged, transferred or paid in respect of the policyholder's interest in the transferee that is acquired on the qualifying transfer, and

ii. to not have been charged, transferred or paid in respect of the policyholder's interest in the transferor; and

(e) sections 851.20 to 851.22 do not apply in respect of any disposition of an interest in the transferor arising on the qualifying transfer.

History: 2020, c. 16, s. 128.

Deemed disposition.

851.22.0.3. Where a transferor transfers a property to a transferee on a qualifying transfer, each property of the transferor held immediately before the transfer time is deemed to have been disposed of by the transferor immediately before the transfer time for proceeds of disposition equal to the lesser of the following amounts and acquired by the transferee at the transfer time at a cost equal to that amount:

(a) the fair market value of the property immediately before the transfer time; and

(b) the greater of

i. the cost amount of the property to the transferor immediately before the transfer time, and

ii. the amount that is designated in respect of the property in the election referred to in subparagraph *b* of the first paragraph of section 851.22.0.1 in respect of the qualifying transfer.

History: 2020, c. 16, s. 128.

Property deemed disposed of and acquired again by the transferee.

851.22.0.4. Where a transferor transfers a property to a transferee on a qualifying transfer, each property of the transferee held immediately before the transfer time is deemed to have been disposed of by the transferee immediately before the transfer time for proceeds of disposition equal to the lesser of the following amounts and acquired again by the transferee at the transfer time at a cost equal to that amount:

(a) the fair market value of the property immediately before the transfer time; and

(b) the greater of

i. the cost amount of the property to the transferee immediately before the transfer time, and

ii. the amount that is designated in respect of the property in the election referred to in subparagraph *b* of the first paragraph of section 851.22.0.1 in respect of the qualifying transfer.

History: 2020, c. 16, s. 128.

Limitation on losses.

851.22.0.5. Section 851.16 does not apply to capital losses of a fund from the disposition, under sections 851.22.0.3 and 851.22.0.4, of property on a qualifying transfer to the extent that the amount of such capital losses exceeds the amount of capital gains of the fund from the disposition of such property.

History: 2020, c. 16, s. 128.

TITLE V.1 FINANCIAL INSTITUTIONS

CHAPTER I INTERPRETATION

Definitions:

851.22.1. In this Title,

“*base year*”;

“*base year*” of a taxpayer means the taxpayer's taxation year that precedes the taxpayer's transition year;

“*excluded property*”;

“*excluded property*” of a taxpayer for a taxation year means property, held in the year by the taxpayer, that is

(a) a share of the capital stock of a corporation if, at any time in the year, the taxpayer has a significant interest in the corporation;

(b) a property that is, at all times in the year at which the taxpayer held the property, a prescribed payment card corporation share of the taxpayer;

(c) if the taxpayer is an investment dealer, a property that is, at all times in the year at which the taxpayer held the property, a prescribed securities exchange investment of the taxpayer;

(d) a share of the capital stock of a corporation if

i. control of the corporation is, at any time (in this paragraph referred to as the “acquisition of control time”) that is in the 24-month period that begins immediately after the end of the year, acquired by

(1) the taxpayer,

(2) one or more persons related to the taxpayer (otherwise than by reason of a right referred to in paragraph *b* of section 20), or

(3) the taxpayer and one or more persons described in subparagraph 2; and

ii. the taxpayer elects, in a document filed with the Minister on or before the taxpayer’s filing-due date for the taxpayer’s taxation year that includes the acquisition of control time, to have subparagraph i apply; or

(e) a prescribed property;

“fair value property”;

“fair value property” of a taxpayer for a taxation year means a property, held at any time in the year by the taxpayer, that is—or it is reasonable to expect would, if the taxpayer held the property at the end of the year, be—valued (otherwise than solely because its fair value was less than its cost to the taxpayer or, if the property is a specified debt obligation, because of a default of the debtor) in accordance with generally accepted accounting principles, at its fair value (determined in accordance with those principles) in the taxpayer’s balance sheet as at the end of the year;

“financial institution”;

“financial institution” at a particular time means, subject to the second paragraph,

(a) a corporation that is, at that time,

i. a corporation referred to in any of paragraphs *a* to *e.1* of the definition of “restricted financial institution” in section 1,

ii. an investment dealer, or

iii. a corporation controlled by one or more persons or partnerships each of which is a financial institution at that time, other than a corporation the control of which was acquired by reason of the default of a debtor where it is

reasonable to consider that control is being retained solely for the purpose of minimizing any losses in respect of the debtor’s default; and

(b) a trust or partnership more than 50% of the fair market value of all interests in which are held at that time by one or more financial institutions;

“investment dealer”;

“investment dealer” at a particular time means a corporation that is, at that time, a registered securities dealer;

“mark-to-market property”;

“mark-to-market property” of a taxpayer for a taxation year means property (other than an excluded property) held in the year by the taxpayer that is

(a) a share;

(b) where the taxpayer is not an investment dealer, a specified debt obligation that is a fair value property of the taxpayer for the year;

(c) where the taxpayer is an investment dealer, a specified debt obligation; or

(d) a tracking property of the taxpayer that is a fair value property of the taxpayer for the year;

“specified debt obligation”;

“specified debt obligation” of a taxpayer means the interest held by the taxpayer in a loan, bond, debenture, note, hypothecary claim, mortgage, agreement of sale or any other similar indebtedness, or a debt obligation, where the taxpayer purchased the interest, other than an interest in

(a) an income bond, an income debenture, a small business bond, a development bond or a prescribed property; or

(b) an instrument issued by or made with a person to whom the taxpayer is related or with whom the taxpayer does not otherwise deal at arm’s length, or in which the taxpayer has a significant interest;

“tracking property”;

“tracking property” of a taxpayer means a property of the taxpayer the fair market value of which is determined primarily by reference to one or more criteria in respect of a property (in this definition referred to as a “tracked property”) that, if owned by the taxpayer, would be a mark-to-market property of the taxpayer, which criteria are

(a) the fair market value of the tracked property;

(b) the profits or gains from the disposition of the tracked property;

(c) the revenue, income or cash flow from the tracked property; or

(d) any other similar criteria in respect of the tracked property;

“transition amount”;

“transition amount” of a taxpayer for the taxpayer’s transition year is the positive or negative amount determined by the formula

A – B;

“transition property”;

“transition property” of a taxpayer means a property that

(a) was a specified debt obligation held by the taxpayer at the end of the taxpayer’s base year;

(b) was not a mark-to-market property of the taxpayer for the taxpayer’s base year, but would have been a mark-to-market property of the taxpayer for the taxpayer’s base year if the property had been carried at the property’s fair market value in the taxpayer’s balance sheet as at the end of each taxation year of the taxpayer that ends after the taxpayer last acquired the property (otherwise than by reason of a reacquisition under section 851.22.15) and before the commencement of the taxpayer’s transition year; and

(c) was a mark-to-market property of the taxpayer for the transition year of the taxpayer;

“transition year”.

“transition year” of a taxpayer means the taxpayer’s first taxation year that begins after 30 September 2006.

Excluded financial institutions.

“Financial institution”, as defined in the first paragraph, at a particular time does not include

(a) a corporation that is, at that time, an investment corporation, a mortgage investment corporation, a mutual fund corporation, or a deposit insurance corporation within the meaning of section 804;

(b) a trust that is a mutual fund trust at that time; or

(c) a prescribed person or partnership.

Interpretation.

In the formula in the definition of “transition amount” in the first paragraph,

(a) A is the aggregate of all amounts each of which is the fair market value, at the end of the taxpayer’s base year, of a transition property of the taxpayer; and

(b) B is the aggregate of all amounts each of which is the cost amount to the taxpayer, at the end of the taxpayer’s base year, of a transition property of the taxpayer.

History: 1996, c. 39, s. 235; 1997, c. 3, s. 71; 2001, c. 7, s. 117; 2001, c. 53, s. 174; 2005, c. 1, s. 197; 2010, c. 25, s. 95.

Corresponding Federal Provision: 142.2(1) and 142.51(1).

Significant interest in a corporation.

851.22.2. For the purposes of the definitions of “excluded property” and “specified debt obligation” in section 851.22.1 and of section 851.22.23.6, a taxpayer has a significant interest in a corporation at any time if the taxpayer is related otherwise than because of a right referred to in paragraph *b* of section 20 to the corporation at that time or the taxpayer holds, at that time, shares of the corporation that give the taxpayer 10% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation, and shares of the corporation having a fair market value of 10% or more of the fair market value of all the issued shares of the corporation.

Rules applicable.

For the purpose of determining under the first paragraph whether a taxpayer has a significant interest in a corporation at any time,

(a) the taxpayer is deemed to hold each share that is held at that time by a person or partnership to whom the taxpayer is related otherwise than because of a right referred to in paragraph *b* of section 20; and

(b) a share of the corporation acquired by the taxpayer by reason of the default of a debtor shall be disregarded where it is reasonable to consider that the share is being retained by the taxpayer for the purpose of minimizing any losses in respect of the debtor’s default, and a share of the corporation that is prescribed in respect of the taxpayer shall be disregarded.

Extension of meaning of “related”.

For the purposes of this section, in determining if, at a particular time, a person or partnership is related to another person or partnership, the rules in sections 17 to 21 are to be applied as if,

(a) a partnership (other than a partnership in respect of which an amount of the income or capital of the partnership that any particular person or particular partnership, in this paragraph referred to as the “entity”, may receive directly from the partnership at any time as a member of the partnership depends on the exercise by any entity of, or the failure by any entity to exercise, a discretionary power) were a corporation having capital stock of a single class divided into 100 issued shares and each member of the partnership owned, at the particular time, that proportion of the issued shares of that class that the fair market value of the member’s interest in the partnership at that time is of the fair market value of all interests in the partnership at the same time; and

(b) a trust (other than a trust in respect of which an amount of the income or capital of the trust that any entity may receive directly from the trust as a beneficiary under the trust depends on the exercise by any entity of, or the failure by any entity to exercise, a discretionary power) were a

corporation having capital stock of a single class divided into 100 issued shares and each beneficiary under the trust owned, at the particular time, that proportion of the issued shares of that class that the fair market value of the beneficiary's beneficial interest in the trust at that time is of the fair market value of all beneficial interests in the trust at the same time.

History: 1996, c. 39, s. 235; 1997, c. 3, s. 71; 2010, c. 25, s. 96; 2015, c. 24, s. 126.

Corresponding Federal Provision: 142.2(2), (3) and (4).

851.22.3. (*Repealed*).

History: 1996, c. 39, s. 235; 1997, c. 3, s. 71; 2010, c. 25, s. 97.

CHAPTER II SPECIFIED DEBT OBLIGATIONS

DIVISION I INCOME FROM SPECIFIED DEBT OBLIGATIONS

Amounts to be included and deducted.

851.22.4. Subject to sections 851.22.5 and 851.22.5.1, where a taxpayer that is, in a taxation year, a financial institution holds a specified debt obligation at any time in the year, the following rules apply:

(a) there shall be included in computing the taxpayer's income for the year the amount prescribed in respect of the obligation;

(b) there shall be deducted in computing the taxpayer's income for the year the amount prescribed in respect of the obligation; and

(c) except as provided by this chapter, paragraphs *d* and *i* of section 87 and sections 140 and 141, no amount shall be included or deducted in respect of payments under the obligation, other than fees and similar amounts, in computing the taxpayer's income for the year.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 118.

Corresponding Federal Provision: 142.3(1).

Failure to report accrued amounts.

851.22.4.1. Subject to section 851.22.5, where a taxpayer who holds a specified debt obligation at any time in a particular taxation year in which the taxpayer is a financial institution has not included, in computing the taxpayer's income for a preceding taxation year, all or part of an amount required by section 92 or paragraph *a* of section 851.22.4 to be so included in respect of the obligation, that amount or that part of the amount shall be included by the taxpayer in computing the taxpayer's income for the particular year, to the extent that it was not included in computing the taxpayer's income for a preceding taxation year.

History: 2001, c. 7, s. 119.

Corresponding Federal Provision: 142.3(2).

Exception for certain obligations.

851.22.5. This division does not apply for a taxation year in respect of a specified debt obligation of a taxpayer that is a mark-to-market property for the year, an indexed debt obligation, other than a prescribed obligation, or a debt obligation disposed of before 23 February 1994.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.3(3).

Impaired specified debt obligations.

851.22.5.1. Section 851.22.4 does not apply to a taxpayer in respect of a specified debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of paragraph *b* of section 140 in computing the taxpayer's income for the year.

History: 2001, c. 7, s. 120.

Corresponding Federal Provision: 142.3(4).

DIVISION II DISPOSITION OF SPECIFIED DEBT OBLIGATIONS

Scope of Division II.

851.22.6. This division applies where a taxpayer that is a financial institution disposes of a specified debt obligation that is not a mark-to-market property for the taxation year in which the disposition occurs.

Disposition of part of an obligation.

Where a taxpayer disposes of part of a specified debt obligation, this chapter applies as if the part disposed of and the part retained were separate specified debt obligations.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 121.

Corresponding Federal Provision: 142.4(2) and (9).

Definitions:

851.22.7. In this division,

"tax basis";

"tax basis" of a specified debt obligation at a particular time to a taxpayer means the amount by which the aggregate of the following amounts exceeds the amount referred to in section 851.22.8:

- (a) the cost of the obligation to the taxpayer;
- (b) an amount included under section 92, 123 or 851.22.4.1 or paragraph *a* of section 851.22.4 in respect of the obligation in computing the taxpayer's income for a taxation year that began before the particular time;
- (c) subject to section 838, where the taxpayer acquired the obligation in a taxation year ending before 23 February 1994, the part of the amount included in computing the taxpayer's income for a taxation year ending before 23 February 1994,

by which the principal amount of the obligation at the time it was acquired exceeds the cost to the taxpayer of the obligation;

(d) subject to section 838, where the taxpayer is a life insurer, an amount in respect of the obligation that was deemed by paragraph *a* of section 830, as it read, before its repeal, in its application to the taxation year 1977, to be a gain for a taxation year ending before 1 January 1978;

(e) where the obligation is an indexed debt obligation, an amount determined under paragraph *a* of section 125.0.1 in respect of the obligation and included in computing the taxpayer's income for a taxation year beginning before the particular time;

(f) an amount in respect of the obligation that was included in computing the taxpayer's income for a taxation year ending at or before the particular time in respect of changes in the value of the obligation attributable to the fluctuation in the value of a foreign currency relative to Canadian currency, other than an amount included under paragraph *a* of section 851.22.4;

(g) an amount in respect of the obligation that was included under paragraph *i* of section 87 in computing the taxpayer's income for a taxation year beginning before the particular time; and

(h) where the obligation was a capital property of the taxpayer on 22 February 1994, an amount required by paragraph *b* or *c.1* of section 255 to be added in computing the adjusted cost base of the obligation to the taxpayer on that day;

“transition amount”.

“transition amount” of a taxpayer in respect of the disposition of a specified debt obligation has the meaning assigned by the regulations.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 122.

Corresponding Federal Provision: 142.4(1) “tax basis” (a) to (h) and “transition amount”.

Deduction in computing the tax basis.

851.22.8. The amount required to be deducted in computing the tax basis of a specified debt obligation at a particular time to a taxpayer is the aggregate of all amounts each of which is

(a) an amount deducted under paragraph *b* of section 851.22.4 in respect of the obligation in computing the taxpayer's income for a taxation year beginning before the particular time;

(b) the amount of a payment received by the taxpayer under the obligation at or before the particular time, other than a fee or similar payment and the proceeds of disposition of the obligation;

(c) subject to section 838, where the taxpayer acquired the obligation in a taxation year ending before 23 February 1994,

the part of the amount that was deducted in computing the taxpayer's income for a taxation year ending before 23 February 1994 by which the cost to the taxpayer of the obligation exceeds the principal amount of the obligation at the time it was acquired;

(d) subject to section 838, where the taxpayer is a life insurer, an amount in respect of the obligation that was deemed by paragraph *b* of section 830, as it read, before its repeal, in its application to the taxation year 1977, to be a loss for a taxation year ending before 1 January 1978;

(e) an amount that was deducted under section 167 in respect of the obligation in computing the taxpayer's income for a taxation year beginning before the particular time;

(f) where the obligation is an indexed debt obligation, an amount determined under paragraph *b* of section 125.0.1 in respect of the obligation and deducted in computing the taxpayer's income for a taxation year beginning before the particular time;

(g) an amount in respect of the obligation that was deducted in computing the taxpayer's income for a taxation year ending at or before the particular time in respect of changes in the value of the obligation attributable to the fluctuation in the value of a foreign currency relative to Canadian currency, other than an amount deducted under paragraph *b* of section 851.22.4;

(h) an amount in respect of the obligation that was deducted under section 141 in computing the taxpayer's income for a taxation year ending at or before the particular time; or

(i) where the obligation was a capital property of the taxpayer on 22 February 1994, an amount required by paragraph *b* or *f.3* of section 257 to be deducted in computing the adjusted cost base of the obligation to the taxpayer on that day.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 123.

Corresponding Federal Provision: 142.4(1) “tax basis” (i) to (q).

Gain or loss from the disposition of an obligation.

851.22.9. For the purposes of this division,

(a) where the amount determined under paragraph *c* in respect of the disposition of a specified debt obligation by a taxpayer is positive, that amount is the taxpayer's gain from the disposition of the obligation;

(b) where the amount determined under paragraph *c* in respect of the disposition of a specified debt obligation by a taxpayer is negative, that amount expressed as a positive number is the taxpayer's loss from the disposition of the obligation; and

(c) the amount referred to in paragraphs *a* and *b* in respect of the disposition of a specified debt obligation by a taxpayer is the positive or negative amount determined by the formula

$$A - (B + C).$$

Interpretation.

For the purposes of the formula in subparagraph *c* of the first paragraph,

(a) *A* is the taxpayer's proceeds of disposition of the specified debt obligation;

(b) *B* is the tax basis of the obligation to the taxpayer immediately before the time of disposition; and

(c) *C* is the taxpayer's transition amount in respect of the disposition of the obligation.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 124.

Corresponding Federal Provision: 142.4(6).

Rules applicable to a disposition.

851.22.10. Where a taxpayer has disposed of a specified debt obligation after 22 February 1994,

(a) except as provided by this division and by paragraph *d* of section 484.12, no amount shall be included or deducted in respect of the disposition in computing the taxpayer's income; and

(b) except where the obligation is an indexed debt obligation, other than a prescribed obligation, the first paragraph of section 167 shall not apply in respect of the disposition.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 125.

Corresponding Federal Provision: 142.4(3).

Inclusions and deductions in computing income.

851.22.11. Subject to section 851.22.13, where a taxpayer has, in a taxation year and after 31 December 1994, disposed of a specified debt obligation,

(a) where the transition amount in respect of the disposition of the obligation is positive, it shall be included in computing the taxpayer's income for the year;

(b) where the transition amount in respect of the disposition of the obligation is negative, such transition amount expressed as a positive number shall be deducted in computing the taxpayer's income for the year;

(c) where the taxpayer has a gain from the disposition of the obligation, there shall be included in computing the taxpayer's income for the year the current amount of the gain and, in computing the taxpayer's income for each taxation year that ends on or after the day of disposition the amount

allocated, in accordance with prescribed rules, to the year in respect of the residual portion of the gain; and

(d) where the taxpayer has a loss from the disposition of the obligation, there shall be deducted in computing the taxpayer's income for the year the current amount of the loss and, in computing the taxpayer's income for each taxation year that ends on or after the day of disposition the amount allocated, in accordance with prescribed rules, to the year in respect of the residual portion of the loss.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 126.

Corresponding Federal Provision: 142.4(4).

Current amount and residual portion of a gain or loss.

851.22.12. For the purposes of section 851.22.11 and this section,

(a) the current amount of a taxpayer's gain or loss from the disposition of a specified debt obligation is

i. where the taxpayer has a gain from the disposition of the obligation, the part of the gain that is reasonably attributable to a material increase in the probability, or perceived probability, that the debtor will make all payments as required by the obligation, and

ii. where the taxpayer has a loss from the disposition of the obligation, the negative amount that the taxpayer claims not exceeding in magnitude the part of the loss that is reasonably attributable to a default by the debtor or a material decrease in the probability, or perceived probability, that the debtor will make all payments as required by the obligation; and

(b) the residual portion of a taxpayer's gain or loss from the disposition of a specified debt obligation is the amount by which the gain or loss exceeds the current amount of the gain or loss.

History: 1996, c. 39, s. 235; 2001, c. 7, s. 127.

Corresponding Federal Provision: 142.4(7) and (8).

Gain or loss not amortized.

851.22.13. Subject to the second paragraph, where a taxpayer has, in a taxation year and after 22 February 1994, disposed of a specified debt obligation,

(a) section 851.22.11 does not apply to the disposition;

(b) there shall be included in computing the taxpayer's income for the year the amount by which the taxpayer's proceeds of disposition exceed the tax basis of the obligation to the taxpayer immediately before the disposition; and

(c) there shall be deducted in computing the taxpayer's income for the year the amount by which the tax basis of the obligation to the taxpayer immediately before the disposition exceeds the taxpayer's proceeds of disposition.

Conditions.

The first paragraph applies only where

(a) the obligation is an indexed debt obligation, other than a prescribed obligation, or a debt obligation prescribed in respect of the taxpayer; or

(b) the disposition occurred before 1 January 1995, after 31 December 1994 in connection with the transfer of all or part of a business of the taxpayer to a person or partnership, because of paragraph *c* of section 851.22.23, or before 1 January 1996 where the taxpayer, other than a life insurance corporation, elects to have this section apply by notifying the Minister of Revenue in writing on or before the taxpayer's filing-due date for the taxpayer's taxation year that includes 23 May 2001.

Assessment.

Where a taxpayer elects under subparagraph *b* of the second paragraph, the Minister shall, for the purposes of Part I and notwithstanding sections 1010 to 1011, make such assessment or reassessment of the taxpayer's tax, interest and penalties as is necessary for any taxation year to give effect to the election.

History: 1996, c. 39, s. 235; 1997, c. 3, s. 71; 2001, c. 7, s. 128.

Corresponding Federal Provision: 142.4(5).

Penalties and bonuses.

851.22.13.1. Notwithstanding section 175.1.1, where a taxpayer that holds a specified debt obligation receives a penalty or bonus because of the repayment before maturity of all or part of the principal amount of the debt obligation, the payment is deemed to be received by the taxpayer as proceeds of disposition of the obligation.

History: 2001, c. 7, s. 129.

Corresponding Federal Provision: 142.4(10).

Payments received on or after disposition.

851.22.13.2. For the purposes of this division, where a taxpayer receives a payment, other than proceeds of disposition, under a specified debt obligation on or after the disposition of the obligation, the payment is deemed not to have been so received at that time but to have been so received immediately before the disposition.

History: 2001, c. 7, s. 129.

Corresponding Federal Provision: 142.4(11).

CHAPTER III**MARK-TO-MARKET PROPERTIES****Inclusions and deductions in computing income.**

851.22.14. Where, in a taxation year that begins after 31 October 1994, a taxpayer that is a financial institution in the year disposes of a property that is a mark-to-market property for the year, there shall be included in computing the

taxpayer's income for the year the profit, if any, from the disposition and there shall be deducted in computing the taxpayer's income for the year the loss, if any, from the disposition.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.5(1).

Mark-to-market requirement.

851.22.15. Where a taxpayer that is a financial institution in a taxation year holds, at the end of the year, a mark-to-market property for the year, the taxpayer is deemed

(a) to have disposed of the property immediately before the end of the year for proceeds equal to its fair market value at the time of disposition; and

(b) to have reacquired the property at the end of the year at a cost equal to the proceeds referred to in paragraph *a*.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.5(2).

Mark-to-market debt obligation.

851.22.16. Where a taxpayer is a financial institution in a taxation year that begins after 31 October 1994, the following rules apply in respect of a specified debt obligation that is a mark-to-market property of the taxpayer for the year:

(a) paragraph *c* of section 87 and sections 92, 157.6 and 167 do not apply to the obligation in computing the taxpayer's income for the year; and

(b) there shall be included in computing the taxpayer's income for the year an amount received by the taxpayer in the year as, on account of, in lieu of payment of, or in satisfaction of, interest on the obligation, to the extent that the amount was not included in computing the taxpayer's income for a preceding taxation year.

Application.

For the purposes of subparagraph *b* of the first paragraph, where the taxpayer is deemed by section 851.22.15 or paragraph *b* of section 851.22.23 to have disposed of the obligation in a preceding taxation year, no part of an amount included in computing the taxpayer's income for the preceding taxation year because of the disposition shall be in respect of interest on the obligation.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.5(3).

Proceeds of disposition.

851.22.16.1. Where a taxpayer is a financial institution in a taxation year and disposes of a share that is mark-to-market property of the taxpayer for the year, the taxpayer's proceeds of disposition do not include any amount that would otherwise be proceeds of disposition to the extent that the

amount is deemed under section 508 to be a dividend received except to the extent that the dividend is deemed under subparagraph *b* of section 568 not to be a dividend.

History: 2020, c. 16, s. 129.

851.22.17. *(Repealed).*

History: 1996, c. 39, s. 235; 2015, c. 24, s. 127.

Corresponding Federal Provision: 142.5(4).

851.22.18. *(Repealed).*

History: 1996, c. 39, s. 235; 2001, c. 7, s. 130; 2015, c. 24, s. 127.

Corresponding Federal Provision: 142.5(5).

851.22.19. *(Repealed).*

History: 1996, c. 39, s. 235; 2001, c. 7, s. 130; 2015, c. 24, s. 127.

Corresponding Federal Provision: 142.5(6).

851.22.20. *(Repealed).*

History: 1996, c. 39, s. 235; 2001, c. 7, s. 130; 2015, c. 24, s. 127.

Corresponding Federal Provision: 142.5(7).

First deemed disposition of a debt obligation.

851.22.21. Where in a particular taxation year that ends after 30 October 1994, a taxpayer disposed of a specified debt obligation that is a mark-to-market property of the taxpayer for the following taxation year, and either the disposition occurred because of section 851.22.15 and the particular year includes 31 October 1994, or the disposition occurred because of paragraph *b* of section 851.22.23,

(a) section 157.6 does not apply to the disposition; and

(b) where the conditions set out in subparagraphs i and ii are met, there shall be included in computing the taxpayer's income for the particular year the amount by which the aggregate of all amounts each of which is an amount referred to in subparagraph i exceeds the aggregate of all amounts included under paragraph *i* of section 87 in respect of the obligation in computing the taxpayer's income for the particular year or a preceding taxation year:

i. an amount has been deducted under section 141 in respect of the obligation in computing the taxpayer's income for the particular year or a preceding taxation year, and

ii. section 92.22 does not apply to the disposition.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.5(8).

First deemed disposition of a debt obligation.

851.22.21.1. The rules in section 851.22.21.2 apply if

(a) section 851.22.15 deems the taxpayer to have disposed of a specified debt obligation immediately before the end of

the taxpayer's transition year (in section 851.22.21.2 referred to as the "particular disposition"); and

(b) the specified debt obligation was owned by the taxpayer at the end of the taxpayer's base year and was not a mark-to-market property of the taxpayer for the taxpayer's base year.

History: 2010, c. 25, s. 98.

Corresponding Federal Provision: 142.5(8.1).

Rules applicable.

851.22.21.2. The rules to which section 851.22.21.1 refers and that apply to a taxpayer in respect of a particular disposition are the following:

(a) section 157.6 does not apply to the taxpayer in respect of the particular disposition; and

(b) if section 92.22 does not apply to the taxpayer in respect of the particular disposition, there must be included in computing the taxpayer's income for the taxpayer's transition year the amount by which the aggregate determined in the second paragraph is exceeded by the aggregate of all amounts each of which is an amount deducted under section 140 in respect of the specified debt obligation of the taxpayer in computing the taxpayer's income for the taxpayer's base year, or an amount deducted under section 141 in respect of the specified debt obligation of the taxpayer in computing the taxpayer's income for a taxation year that preceded the taxpayer's transition year.

Determination of the aggregate amount.

The aggregate to which subparagraph *b* of the first paragraph refers is the aggregate of all amounts each of which is an amount included under paragraph *d* of section 87 in respect of the specified debt obligation of the taxpayer in computing the taxpayer's income for the taxpayer's transition year, or an amount included under paragraph *i* of section 87 in respect of the specified debt obligation of the taxpayer in computing the taxpayer's income for the taxpayer's transition year or a preceding taxation year.

History: 2010, c. 25, s. 98.

Corresponding Federal Provision: 142.5(8.2).

Property acquired on rollover.

851.22.22. The rules set out in the second paragraph apply where a taxpayer is deemed by section 851.22.15 to have disposed of a property in a taxation year, referred to as a "particular year" in the second paragraph, that includes 31 October 1994 and the following conditions are met:

(a) the taxpayer acquired the property before 31 October 1994 at a cost less than the fair market value of the property at the time of acquisition;

(b) the property was transferred, directly or indirectly, to the taxpayer by a person that would never have been a financial institution before the transfer if the definition of "financial institution" in section 851.22.1 had always applied; and

(c) the cost of the property is less than the fair market value because section 518 applied in respect of the disposition of the property by the person referred to in subparagraph b.

Rules applicable.

The rules to which the first paragraph refers are as follows:

(a) where the taxpayer would, but for this subparagraph, have a taxable capital gain for the particular year from the disposition of the property, the part of the taxable capital gain that can reasonably be considered to have arisen while the property was held by a person described in subparagraph b of the first paragraph is deemed to be a taxable capital gain of the taxpayer from the disposition of the property for the taxation year in which the taxpayer disposes of the property otherwise than because of section 851.22.15, and not to be a taxable capital gain for the particular year; and

(b) where the taxpayer has a profit, other than a capital gain, from the disposition of the property, the part of the profit that can reasonably be considered to have arisen while the property was held by a person described in subparagraph b of the first paragraph shall be included in computing the taxpayer's income for the taxation year in which the taxpayer disposes of the property otherwise than because of section 851.22.15, and shall not be included in computing the taxpayer's income for the particular year.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.5(9).

CHAPTER III.1 TRANSITIONAL RULES

Transition year income inclusion.

851.22.22.1. If the transition amount of a taxpayer that is a financial institution in the taxpayer's transition year is negative, the transition amount, expressed as a positive number, must be included in computing the taxpayer's income for that year.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(2).

Transition year income deduction.

851.22.22.2. If the transition amount of a taxpayer that is a financial institution in the taxpayer's transition year is positive, the transition amount must be deducted in computing the taxpayer's income for that year.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(3).

Transition year income inclusion reversal.

851.22.22.3. If an amount has been included under section 851.22.22.1 in computing a taxpayer's income for the taxpayer's transition year, there must be deducted in computing the taxpayer's income for each particular taxation year of the taxpayer that ends after the beginning of the transition year, and in which particular taxation year the taxpayer is a financial institution, the amount determined by the formula

$$A \times B/1,825.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount included under section 851.22.22.1 in computing the taxpayer's income for the taxpayer's transition year; and

(b) B is the number of days in the particular taxation year that are before the day that is 1,825 days after the first day of the transition year.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(4).

Transition year income deduction reversal.

851.22.22.4. If an amount has been deducted under section 851.22.22.2 in computing a taxpayer's income for the taxpayer's transition year, there must be included in computing the taxpayer's income, for each particular taxation year of the taxpayer that ends after the beginning of the transition year, and in which particular taxation year the taxpayer is a financial institution, the amount determined by the formula

$$A \times B/1,825.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount deducted under section 851.22.22.2 in computing the taxpayer's income for the taxpayer's transition year; and

(b) B is the number of days in the particular taxation year that are before the day that is 1,825 days after the first day of the transition year.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(5).

Winding-up.

851.22.22.5. If a taxpayer has, in a winding-up to which section 556 has applied, been wound up into another corporation (in this section referred to as the "parent"), and immediately after the winding-up the parent is a financial

institution, in applying sections 851.22.22.3 and 851.22.22.4 in computing the income of the taxpayer and of the parent for the particular taxation years that end on or after the first day (in this section referred to as the “start day”) on which assets of the taxpayer were distributed to the parent on the winding-up, the following rules apply:

(a) the parent is, on and after the start day, deemed to be the same corporation as and a continuation of the taxpayer in respect of

i. any amount included under section 851.22.22.1 or deducted under section 851.22.22.2 by the taxpayer in computing the taxpayer’s income for the taxpayer’s transition year,

ii. any amount deducted under section 851.22.22.3 or included under section 851.22.22.4 in computing the taxpayer’s income for a taxation year of the taxpayer that begins before the start day, and

iii. any amount that would—in the absence of this section and if the taxpayer existed and was a financial institution on each day that is the start day or a subsequent day and on which the parent is a financial institution—be required to be deducted under section 851.22.22.3 or included under section 851.22.22.4, in respect of any of those days, in computing the taxpayer’s income for the taxpayer’s transition year; and

(b) the taxpayer is, in respect of each of the taxpayer’s particular taxation years, to determine the number of days that is referred to in subparagraph *b* of the second paragraph of sections 851.22.22.3 and 851.22.22.4 without reference to the start day and days after the start day.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(6).

Transfer of a business.

851.22.22.6. The rules in section 851.22.22.7 apply if, at any time, a taxpayer (in this section and section 851.22.22.7 referred to as the “transferor”) transfers, to a corporation (in this section and section 851.22.22.7 referred to as the “transferee”) that is related to the transferor, property in respect of a business carried on by the transferor in Canada (in this section and section 851.22.22.7 referred to as the “transferred business”) and

(a) section 832.3 or 832.9 applies to the transfer; or

(b) section 518 applies to the transfer, the transfer includes all or substantially all of the property and liabilities of the transferred business and, immediately after the transfer, the transferee is a financial institution.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(8).

Rules applicable.

851.22.22.7. The rules to which section 851.22.22.6 refers and that apply to the transfer, at any time, of property are the following:

(a) the transferee is, at and after that time, deemed to be the same corporation as and a continuation of the transferor in respect of

i. any amount included under section 851.22.22.1 or deducted under section 851.22.22.2 in computing the transferor’s income for the transferor’s transition year that can reasonably be attributed to the transferred business,

ii. any amount deducted under section 851.22.22.3 or included under section 851.22.22.4 in computing the transferor’s income for a taxation year of the transferor that begins before that time that can reasonably be attributed to the transferred business, and

iii. any amount that would—in the absence of this section and if the transferor existed and was a financial institution on each day that includes that time or is a subsequent day and on which the transferee is a financial institution—be required to be deducted under section 851.22.22.3 or included under section 851.22.22.4, in respect of any of those days, in computing the transferor’s income that can reasonably be attributed to the transferred business; and

(b) for the purpose of determining, in respect of the day that includes that time or any subsequent day, any amount that is required to be deducted under section 851.22.22.3 or included under section 851.22.22.4 in computing the transferor’s income for each particular taxation year from the transferred business, the amount referred to in subparagraph *a* of the second paragraph of those sections is deemed to be nil.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(9).

Continuation of a partnership.

851.22.22.8. If section 633 deems a partnership (in this section referred to as the “new partnership”) to be a continuation of another partnership (in this section referred to as the “predecessor partnership”) and, at the time that is immediately after the predecessor partnership ceases to exist, the new partnership is a financial institution, in applying sections 851.22.22.3 and 851.22.22.4 in computing the income of the new partnership for the particular fiscal periods of the new partnership that begin on or after the day on which it comes into existence, the new partnership is, on and after that day, deemed to be the same partnership as and a continuation of the predecessor partnership in respect of

(a) any amount included under section 851.22.22.1 or deducted under section 851.22.22.2 in computing the

predecessor partnership's income for the predecessor partnership's transition year;

(b) any amount deducted under section 851.22.22.3 or included under section 851.22.22.4 in computing the predecessor partnership's income for a fiscal period of the predecessor partnership that begins before the day on which the new partnership comes into existence; and

(c) any amount that would—in the absence of this section and if the predecessor partnership existed and was a financial institution on each day that is the day on which the new partnership comes into existence or a subsequent day and on which the new partnership is a financial institution—be required to be deducted under section 851.22.22.3 or included under section 851.22.22.4, in respect of any of those days, in computing the predecessor partnership's income.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(10).

Taxpayer ceasing to be a financial institution.

851.22.22.9. If at any time, a taxpayer ceases to be a financial institution, the following rules apply:

(a) there must be deducted, in computing the income of the taxpayer for the taxation year of the taxpayer that includes the time that is immediately before that time, the amount determined by the formula

A – B; and

(b) there must be included, in computing the income of the taxpayer for the taxation year of the taxpayer that includes the time that is immediately before that time, the amount determined by the formula

C – D.

Interpretation.

In the formulas in the first paragraph,

(a) A is the amount included under section 851.22.22.1 in computing the taxpayer's income for the taxpayer's transition year;

(b) B is the aggregate of all amounts each of which is an amount deducted under section 851.22.22.3 in computing the income of the taxpayer for a taxation year that began before that time;

(c) C is the amount deducted under section 851.22.22.2 in computing the taxpayer's income for the taxpayer's transition year; and

(d) D is the aggregate of all amounts each of which is an amount included under section 851.22.22.4 in computing the

taxpayer's income for a taxation year that began before that time.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(11).

Ceasing to exist.

851.22.22.10. If a taxpayer ceases to exist (otherwise than as a result of an amalgamation within the meaning of subsections 1 and 2 of section 544, a winding-up to which section 556 applies or a continuation to which section 633 applies), for the purposes of section 851.22.22.9, the taxpayer is deemed to have ceased to be a financial institution at the time (determined without reference to this section) at which the taxpayer ceased to be a financial institution or, if it is earlier, the time that is immediately before the end of the last taxation year of the taxpayer that ended at or before the time at which the taxpayer ceased to exist.

History: 2010, c. 25, s. 99.

Corresponding Federal Provision: 142.51(12).

CHAPTER IV ADDITIONAL RULES

Becoming or ceasing to be a financial institution.

851.22.23. Where, at a particular time after 22 February 1994, a taxpayer becomes or ceases to be a financial institution,

(a) if the taxpayer is a corporation and if, but for this paragraph, no taxation year of the taxpayer would end immediately before the particular time, the taxation year of the taxpayer that would otherwise have included the particular time is deemed to have ended immediately before that time and a new taxation year of the taxpayer is deemed to have begun at the particular time and to have ended at the time at which the taxpayer's taxation year (determined for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)) that includes the particular time, ended;

(a.1) if the taxpayer is a trust and if, but for this paragraph, no taxation year of the taxpayer would end immediately before the particular time, except for the purposes of section 1120.0.1, the taxation year of the taxpayer that would otherwise have included the particular time is deemed to have ended immediately before that time and a new taxation year of the taxpayer is deemed to have begun at the particular time;

(b) if the taxpayer becomes a financial institution, the taxpayer is deemed to have disposed, immediately before the end of its particular taxation year that ends immediately before the particular time, of each of the following properties held by the taxpayer for proceeds of disposition equal to the property's fair market value at the time of that disposition:

- i. a specified debt obligation, or
- ii. a mark-to-market property of the taxpayer for the particular taxation year or for the taxpayer's taxation year that includes the particular time;

(c) where the taxpayer ceases to be a financial institution, the taxpayer is deemed to have disposed, immediately before the end of its taxation year that ends immediately before the particular time, of each property held by the taxpayer that is a specified debt obligation, other than a mark-to-market property of the taxpayer for the year, for proceeds equal to its fair market value at the time of disposition; and

(d) the taxpayer is deemed to have reacquired, at the end of its taxation year that ends immediately before the particular time, each property deemed under paragraph *b* or *c* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property.

History: 1996, c. 39, s. 235; 2001, c. 53, s. 175; 2009, c. 5, s. 355.

Corresponding Federal Provision: 142.6(1).

Ceasing to use property in a Canadian business.

851.22.23.1. Where, at a particular time in a taxation year, a taxpayer that is a financial institution not resident in Canada, other than a life insurance corporation, ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before the particular time, a property that is a mark-to-market property of the taxpayer for the year or a specified debt obligation, but that is not a property that was disposed of by the taxpayer at the particular time, the following rules apply:

(a) the taxpayer is deemed

i. to have disposed of the property immediately before the time that was immediately before the particular time for proceeds of disposition equal to its fair market value at the time of disposition and to have received those proceeds at the time of disposition in the course of carrying on the business or the part of the business, as the case may be, and

ii. to have reacquired the property at the particular time at a cost equal to those proceeds; and

(b) for the purpose of determining the consequences of the disposition referred to in subparagraph *i* of paragraph *a*, section 851.22.13.2 does not apply to any payment received by the taxpayer after the particular time.

History: 2004, c. 8, s. 166.

Corresponding Federal Provision: 142.6(1.1).

Beginning to use property in a Canadian business.

851.22.23.2. Where, at a particular time in a taxation year, a taxpayer that is a financial institution not resident in Canada, other than a life insurance corporation, begins to use, in connection with a business or part of a business

carried on by the taxpayer in Canada immediately before the particular time, a property that is a mark-to-market property of the taxpayer for the year that includes the particular time or a specified debt obligation, but that is not a property that was acquired by the taxpayer at the particular time, the taxpayer is deemed

(a) to have disposed of the property immediately before the time that was immediately before the particular time for proceeds of disposition equal to its fair market value at the time of disposition; and

(b) to have reacquired the property at the particular time at a cost equal to those proceeds.

History: 2004, c. 8, s. 166.

Corresponding Federal Provision: 142.6(1.2).

Debt obligation marked to market.

851.22.23.3. For the application of section 851.22.23.1 to a taxpayer in relation to a property in a taxation year, the definition of “mark-to-market property” in the first paragraph of section 851.22.1 shall

(a) be applied as if the taxation year ended immediately before the particular time referred to in section 851.22.23.1; and

(b) if the taxpayer does not have financial statements for the period ending immediately before the particular time referred to in section 851.22.23.1, the reference in subparagraphs *i* and *ii* of paragraph *b* to “the taxpayer’s financial statements for the year” shall be read as a reference to “the taxpayer’s financial statements that it is reasonable to expect would have been prepared if the year had ended immediately before the particular time referred to in section 851.22.23.1”.

History: 2004, c. 8, s. 166.

Corresponding Federal Provision: 142.6(1.3).

Change in status—prescribed payment card corporation share.

851.22.23.4. If, at a particular time in a taxation year of a taxpayer who is a financial institution for the year, a property becomes a mark-to-market property of the taxpayer for the year because it ceased, at the particular time, to be a prescribed payment card corporation share of the taxpayer, the following rules apply:

(a) the taxpayer is deemed to have disposed of the property immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, and to have acquired the property, at the particular time, at a cost equal to those proceeds; and

(b) section 851.22.14 does not apply to the disposition referred to in paragraph *a*.

History: 2010, c. 25, s. 100.

Corresponding Federal Provision: 142.6(1.4).

Change in status—prescribed securities exchange investment.

851.22.23.5. If, at a particular time in a taxation year of a taxpayer who is a financial institution for the year, a property becomes a mark-to-market property of the taxpayer for the year because it ceased, at the particular time, to be a prescribed securities exchange investment of the taxpayer, the following rules apply:

(a) the taxpayer is deemed to have disposed of the property immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, and to have acquired the property, at the particular time, at a cost equal to those proceeds; and

(b) section 851.22.14 does not apply to the disposition referred to in paragraph *a*.

History: 2010, c. 25, s. 100.

Corresponding Federal Provision: 142.6(1.5).

Change in status—significant interest.

851.22.23.6. If, at the end of a particular taxation year of a taxpayer who is a financial institution for the year, the taxpayer holds a share of the capital stock of a corporation, the taxpayer has a significant interest in that corporation at any time in the year and the share is a mark-to-market property of the taxpayer for the subsequent taxation year, the taxpayer is deemed to have disposed of the share immediately before the end of the particular year for proceeds of disposition equal to the fair market value, at that time, of the share, and to have acquired the share at the end of the particular year at a cost equal to those proceeds.

History: 2010, c. 25, s. 100.

Corresponding Federal Provision: 142.6(1.6).

Deemed disposition not applicable.

851.22.24. For the purposes of this Act, the determination of the time when a taxpayer acquired a share shall be made without regard to a disposition or acquisition that occurred because of any of sections 851.22.15, 851.22.23 to 851.22.23.2 and 851.22.23.4 to 851.22.23.6.

History: 1996, c. 39, s. 235; 2004, c. 8, s. 167; 2010, c. 25, s. 101.

Corresponding Federal Provision: 142.6(2).

Property not inventory.

851.22.25. Where a taxpayer is a financial institution in a taxation year, inventory of the taxpayer in the year does not include property that is

(a) a specified debt obligation, other than a mark-to-market property for the year; or

(b) where the year begins after 31 October 1994, a mark-to-market property for the year.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.6(3).

Property that ceases to be inventory.

851.22.26. Where a taxpayer that was a financial institution in a taxation year of the taxpayer that includes 23 February 1994 held, on that day, a specified debt obligation, other than a mark-to-market property for the year, that was inventory of the taxpayer at the end of its preceding taxation year,

(a) the taxpayer is deemed to have disposed of the property at the beginning of the year for proceeds equal to

i. where subparagraph ii does not apply, the amount at which the property was valued at the end of the preceding taxation year for the purpose of computing the taxpayer's income for that year, and

ii. where the taxpayer is a bank and the property is prescribed property for the year, the cost of the property to the taxpayer, determined without reference to paragraph *b*;

(b) for the purpose of determining the taxpayer's profit or loss from the disposition, the cost of the property to the taxpayer is deemed to be the amount referred to in subparagraph i of paragraph *a*; and

(c) the taxpayer is deemed to have reacquired the property, immediately after the beginning of the year, at a cost equal to the proceeds of disposition of the property.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.6(4).

Debt obligation acquired in rollover transaction.

851.22.27. Where, on 23 February 1994, a financial institution that is a corporation held a specified debt obligation, other than a mark-to-market property for the taxation year that includes that day, that was at an earlier time held by another corporation, the financial corporation is deemed, in respect of the obligation, to be a continuation of the other corporation, if it has not been so otherwise provided and, between the earlier time and 23 February 1994, the only transactions affecting the ownership of the obligation were rollover transactions.

“rollover transaction”.

For the purposes of the first paragraph, “rollover transaction” means a transaction to which sections 545 to 550 or 556 to 564.1 and 565 apply, or to which section 832.3 or 832.9 applies, other than a transaction to which subparagraph *a* of the second paragraph of section 832.3 requires the provisions of sections 521 to 526 and 528 to be applied.

History: 1996, c. 39, s. 235; 1997, c. 3, s. 71; 2000, c. 5, s. 186.

Corresponding Federal Provision: 142.6(5) and (6).

Superficial loss rule not applicable.

851.22.28. Section 175.7 does not apply to the disposition of a property by a taxpayer after 30 October 1994 where

(a) the taxpayer is a financial institution when the disposition occurs and the property is a specified debt obligation or a mark-to-market property for the taxation year in which the disposition occurs; or

(b) the disposition occurs because of paragraph *b* of section 851.22.23.

History: 1996, c. 39, s. 235.

Corresponding Federal Provision: 142.6(7).

Accrued capital gains and losses election.

851.22.29. A taxpayer that is a financial institution in its first taxation year that ends after 22 February 1994, may elect, by notifying the Minister in writing on or before the taxpayer's filing-due date for the taxpayer's taxation year that includes 23 May 2001 or, where that period has expired, within 90 days after the day on which a notice of assessment of tax payable under this Part for the year, notice that no tax is payable under this Part for the year or notice that an election made by the taxpayer under this section is deemed by section 851.22.30 or 851.22.31 not to have been made is sent to the taxpayer, that

(a) each property of the taxpayer that is a property described in the second paragraph is deemed to have been disposed of by the taxpayer at the end of the taxpayer's last taxation year that ended before 23 February 1994, in this section referred to as the "particular time", for proceeds of disposition equal to, and to have been reacquired by the taxpayer immediately after the particular time at a cost equal to, the lesser of

i. the fair market value of the property at the particular time, and

ii. the greater of the adjusted cost base to the taxpayer of the property immediately before the particular time and the amount designated by the taxpayer in the election in respect of the property;

(b) each property of the taxpayer that is a property described in the third paragraph is deemed to have been disposed of by the taxpayer at the particular time for proceeds of disposition equal to, and to have been reacquired by the taxpayer immediately after the particular time at a cost equal to, the greater of

i. the fair market value of the property at the particular time, and

ii. the lesser of the adjusted cost base to the taxpayer of the property immediately before the particular time and the

amount designated by the taxpayer in the election in respect of the property.

Interpretation.

A property to which subparagraph *a* of the first paragraph refers

(a) was a capital property, other than a depreciable property, of the taxpayer at the particular time;

(b) was a mark-to-market property for, or a specified debt obligation in, the taxpayer's first taxation year that begins after the particular time;

(c) had a fair market value at the particular time greater than its adjusted cost base to the taxpayer at that time; and

(d) is designated by the taxpayer in the election.

Interpretation.

A property to which subparagraph *b* of the first paragraph refers

(a) was a capital property, other than a depreciable property, of the taxpayer at the particular time;

(b) was not a mark-to-market property for, or a specified debt obligation in, the taxpayer's first taxation year that begins after the particular time;

(c) had an adjusted cost base to the taxpayer at the particular time greater than its fair market value at that time; and

(d) is designated by the taxpayer in the election.

Assessment.

Where a taxpayer elects under this section, the Minister shall, for the purposes of Part I and notwithstanding sections 1010 to 1011, make such assessment or reassessment of the taxpayer's tax, interest and penalties as is necessary for the taxpayer's last taxation year that ended before 23 February 1994 to give effect to the election.

History: 2001, c. 7, s. 131; 2004, c. 4, s. 7.

Corresponding Federal Provision: 142.6(8).

Accrued capital gains election limit.

851.22.30. Where a taxpayer has made an election under section 851.22.29 in which a property was designated under subparagraph *d* of the second paragraph of that section, the election is deemed not to have been made where the amount that would be the taxpayer's taxable capital gains from dispositions of property for the taxpayer's last taxation year that ended before 23 February 1994, if this section and section 851.22.31 did not apply, exceeds the aggregate of

(a) the amount that would be the taxpayer's allowable capital losses for the year from dispositions of property if this section and section 851.22.31 did not apply;

(b) the maximum amount that would have been deductible in computing the taxpayer's taxable income for the year in respect of the taxpayer's net capital losses for preceding taxation years if there were sufficient taxable capital gains for the year from dispositions of property; and

(c) the amount by which the amount that would be the taxpayer's taxable capital gains for the taxpayer's last taxation year that ended before 23 February 1994 from dispositions of property if no election were made under section 851.22.29 exceeds the aggregate of

i. the amount that would be the taxpayer's allowable capital losses for the year from dispositions of property if no election were made under section 851.22.29, and

ii. the maximum amount that would be deductible in computing the taxpayer's taxable income for the year in respect of the taxpayer's net capital losses for preceding taxation years if no election were made under section 851.22.29.

History: 2001, c. 7, s. 131; 2004, c. 8, s. 168.

Corresponding Federal Provision: 142.6(9).

Accrued capital losses election limit.

851.22.31. Where a taxpayer has made an election under section 851.22.29 in which a property was designated under subparagraph *d* of the third paragraph of that section, the election is deemed not to have been made where

(a) the aggregate of the amounts determined under paragraphs *a* and *b* of section 851.22.30 in respect of the taxpayer exceeds the amount that would be the taxpayer's taxable capital gains from dispositions of property for the taxpayer's last taxation year that ended before 23 February 1994, if this section and section 851.22.30 did not apply; or

(b) the aggregate of all amounts each of which would, if this section did not apply, be the taxpayer's allowable capital loss for the taxpayer's last taxation year that ended before 23 February 1994 from the deemed disposition of the property under subparagraph *b* of the first paragraph of section 851.22.29 exceeds the total of all amounts each of which is the taxpayer's taxable capital gain for the year from the deemed disposition of the property under subparagraph *a* of the first paragraph of section 851.22.29.

History: 2001, c. 7, s. 131; 2004, c. 8, s. 169.

Corresponding Federal Provision: 142.6(10).

CHAPTER V

CONVERSION OF FOREIGN BANK AFFILIATE TO BRANCH

Definitions:

851.22.32. In this chapter,

“Canadian affiliate”;

“Canadian affiliate” of an entrant bank at any particular time means a Canadian corporation that was, immediately before the particular time, affiliated with the entrant bank and that was, at all times during the period that began on 11 February 1999 and ended immediately before the particular time,

(a) affiliated with either the entrant bank or a foreign bank, within the meaning assigned by section 2 of the Bank Act (Statutes of Canada, 1991, chapter 46) that is affiliated with the entrant bank at the particular time; and

(b) either

i. a bank,

ii. a corporation authorized under the Trust and Loan Companies Act (Statutes of Canada, 1991, chapter 45) to offer services as trustee, or

iii. a corporation of which the principal activity in Canada consists of any of the activities referred to in subparagraphs i to v of paragraph *a* of subsection 3 of section 518 of the Bank Act, as they read for that period and in which the entrant bank or a person not resident in Canada affiliated with the entrant bank holds shares under the authority, directly or indirectly, of an order issued by the Minister of Finance of Canada or the Governor in Council under subsection 1 of section 521 of that Act, as it read for that period;

“entrant bank”;

“entrant bank” means a corporation not resident in Canada that is, or has applied to the Superintendent of Financial Institutions of Canada to become, an authorized foreign bank;

“qualifying foreign merger”.

“qualifying foreign merger” means a merger or combination of corporations that would be a foreign merger within the meaning assigned by section 555.0.1, if the portion of that section before paragraph *a* were read without reference to “and otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation”.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(1).

Presumptions concerning qualifying foreign mergers.

851.22.33. For the purposes of the definition of “Canadian affiliate” in section 851.22.32, where an entrant bank was formed because of a qualifying foreign merger, after 11 February 1999 of two or more corporations, in this

section referred to as “predecessors”, and at the time immediately before the merger, there were one or more Canadian corporations, in this section referred to as “predecessor affiliates”, each of which at that time would have been a Canadian affiliate of a predecessor if the predecessor were an entrant bank at that time, the following rules apply:

(a) each predecessor affiliate is deemed to have been affiliated with the entrant bank throughout the period that began on 11 February 1999 and ended at the time of the merger;

(b) the expression “entrant bank” in subparagraph iii of paragraph *b* of the definition of “Canadian affiliate” is deemed to include a predecessor; and

(c) if two or more of the predecessor affiliates are amalgamated or merged after 11 February 1999 to form a new corporation, the new corporation is deemed to have been affiliated with the entrant bank throughout the period that began on 11 February 1999 and ended at the time of the amalgamation or merger of the predecessor affiliates.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(2).

Branch-establishment rollover.

851.22.34. Where a Canadian affiliate of an entrant bank transfers a property to the entrant bank, the entrant bank begins immediately after the transfer to use or hold the transferred property in its Canadian banking business and the Canadian affiliate and the entrant bank make a valid election for the purposes of subsection 3 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer, Chapter IV of Title IX of Book III, except sections 520.1, 522 to 524 and 526, applies with the necessary modifications.

Interpretation.

However, for the purposes of the first paragraph,

(a) section 518 shall be read as follows:

“**518.** The rules provided for in this division and in Divisions II and III apply where a taxpayer that is a Canadian affiliate of an entrant bank, within the meanings assigned by section 851.22.32, disposes of any of the taxpayer’s property to the entrant bank, and the taxpayer and the entrant bank make a valid election for the purposes of subsection 3 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).”; and

(b) the reference to “first election mentioned in” in section 521.2 shall be read as a reference to “election referred to in”.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(3).

Deemed fair market value.

851.22.35. Where a Canadian affiliate of an entrant bank and the entrant bank have made a valid election under section 851.22.34, in respect of a transfer of property by the Canadian affiliate to the entrant bank, for the purposes of sections 111, 304, 422, 424, 1082.1 and 1082.4 in respect of the transfer, the fair market value of the property is deemed to be the amount agreed by the Canadian affiliate and the entrant bank in the election.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(4).

Specified debt obligations.

851.22.36. Where a Canadian affiliate of an entrant bank transfers a specified debt obligation to the entrant bank in a transaction in respect of which they made a valid election under section 851.22.34, the Canadian affiliate is a financial institution in its taxation year in which the transfer is made, and the amount that the Canadian affiliate and the entrant bank agree on in respect of the obligation is equal to the tax basis of the obligation within the meaning assigned by section 851.22.7, the entrant bank is deemed, for the purposes of Chapters I, II and IV in respect of the obligation, to be the same corporation as, and a continuation of, the Canadian affiliate.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(5).

Mark-to-market property.

851.22.37. Where, at any time within a period described in paragraph *c* of subsection 11 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a Canadian affiliate of an entrant bank described in paragraph *a* of that subsection 11 transfers to the entrant bank a property that is, for the Canadian affiliate’s taxation year in which the property is transferred, a mark-to-market property of the Canadian affiliate, the following rules apply:

(a) for the purposes of sections 744.4 to 744.6.1 and 744.8, the definition of “mark-to-market property” in the first paragraph of section 851.22.1 and section 851.22.22, the entrant bank is deemed, in respect of the property, to be the same corporation as, and a continuation of, the Canadian affiliate; and

(b) for the purpose of applying section 851.22.15 in respect of the property, the Canadian affiliate’s taxation year in which the property is transferred is deemed to have ended immediately before the time the property was transferred.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(6).

Reserves.

851.22.38. The rules in the second paragraph apply where

(a) at a particular time, a Canadian affiliate of an entrant bank transfers to the entrant bank property that is a loan, lending asset or a right to receive an unpaid amount in relation to a disposition before the particular time of property by the affiliate, or the entrant bank assumes an obligation of the Canadian affiliate that is an instrument or commitment described in section 140.2 or an obligation in respect of goods, services, lands or movable property described in paragraph *a* or *b* of section 150;

(b) the property is transferred or the obligation is assumed for an amount equal to its fair market value at the particular time;

(c) the entrant bank begins immediately after the particular time to use or hold the property or owe the obligation in its Canadian banking business; and

(d) the Canadian affiliate and the entrant bank make a valid election for the purposes of subsection 7 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer or assumption.

Rules.

The rules to which the first paragraph refers are as follows:

(a) for the purposes of sections 140, 140.2, 141 and 150 and the first paragraph of section 153 in relation to the obligation or property, the taxation year of the Canadian affiliate that would, but for this section, include the particular time is deemed to end immediately before the particular time; and

(b) for the purpose of computing the income of the Canadian affiliate and the entrant bank for taxation years that end on or after the particular time,

i. any amount deducted under sections 140, 140.2 and 150 and the first paragraph of section 153 by the Canadian affiliate in relation to the obligation or property in computing its income for its taxation year that ended immediately before the particular time, or under section 141 in computing its income for that year or for a preceding taxation year, to the extent that the amount has not been included in computing the affiliate's income under paragraph *i* of section 87, is deemed to have been so deducted by the entrant bank in computing its income for its last taxation year that ended before the particular time and not to have been deducted by the Canadian affiliate,

ii. for the purposes of section 150, an amount in respect of the goods, services, land or movable property that was included in computing the Canadian affiliate's income from a business under paragraph *a* of section 87 is deemed to have

been so included in computing the entrant bank's income from its Canadian banking business for a preceding taxation year,

iii. for the purposes of the first paragraph of section 153 in respect of a property described in the first paragraph sold by the Canadian affiliate in the course of a business, the property is deemed to have been disposed of by the entrant bank, and not by the Canadian affiliate, at the time it was disposed of by the Canadian affiliate, and the amount in respect of the sale that was included in computing the Canadian affiliate's income from a business is deemed to have been included in computing the entrant bank's income from its Canadian banking business for its taxation year that includes the time at which the property was disposed of, and

iv. for the purposes of sections 234 and 279 in respect of a property described in the first paragraph disposed of by the Canadian affiliate,

(1) the property is deemed to have been disposed of by the entrant bank, and not by the Canadian affiliate, at the time it was disposed of by the Canadian affiliate,

(2) the amount determined under the portion of the first paragraph of section 234 before subparagraph *b* or subparagraph *i* of subparagraph *a* of the first paragraph of section 279, in respect of the Canadian affiliate is deemed to be the amount determined under that provision in respect of the entrant bank, and

(3) any amount deducted on account of a reserve by the Canadian affiliate under subparagraph *b* of the first paragraph of section 234 or the portion of subparagraph *a* of the first paragraph of section 279 before subparagraph *i*, in computing its gain from the disposition of the property for its last taxation year that ended before the particular time is deemed to have been so deducted by the entrant bank for its last taxation year that ended before the particular time.

History: 2004, c. 8, s. 170; 2009, c. 5, s. 356; 2010, c. 5, s. 80.

Corresponding Federal Provision: 142.7(7).

Assumption of debt obligations.

851.22.39. Where, at any time within the period described in paragraph *c* of subsection 11 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a Canadian affiliate of an entrant bank described in paragraph *a* of that subsection 11 transfers property to the entrant bank, and any part of the consideration for the transfer is the assumption by the entrant bank in respect of its Canadian banking business of a debt obligation of the Canadian affiliate, the following rules apply:

(a) if the Canadian affiliate and the entrant bank make a valid election for the purposes of paragraph *a* of subsection 8 of section 142.7 of the Income Tax Act,

i. both the value of that part of the consideration for the transfer of the property and, for the purpose of determining the consequences of the assumption of the obligation and any subsequent settlement or extinguishment of that obligation, the value of the consideration given to the foreign bank for the assumption of the obligation are deemed to be an amount, in this paragraph referred to as the “assumption amount”, equal to the amount outstanding on account of the principal amount of the obligation at that time, and

ii. the assumption amount shall not be considered a term of the transaction that differs from that which would have been made between persons dealing at arm’s length solely because it is not equal to the fair market value of the obligation at that time;

(b) where the obligation is denominated in a foreign currency, and the foreign affiliate and the entrant bank make a valid election for the purposes of paragraph *b* of subsection 8 of section 142.7 of the Income Tax Act,

i. the amount of any income, loss, capital gain or capital loss in respect of the obligation due to the fluctuation in the value of the foreign currency relative to Canadian currency realized by

(1) the Canadian affiliate on the assumption of the obligation is deemed to be nil, and

(2) the entrant bank on the settlement or extinguishment of the obligation shall be determined based on the amount of the obligation in Canadian currency at the time it became an obligation of the Canadian affiliate, and

ii. for the purposes of an election made in respect of the obligation under paragraph *a*, the amount outstanding on account of the principal amount of the obligation at that time is the aggregate of all amounts each of which is an amount that was advanced to the Canadian affiliate on account of principal, that remains outstanding at that time, and that is determined using the exchange rate that applied between the foreign currency and Canadian currency at the time of the advance; and

(c) for the purposes of sections 176 to 176.2 and 179 in respect of the debt obligation, the obligation is deemed not to have been settled or extinguished by virtue of its assumption by the entrant bank and the entrant bank is deemed to be the same corporation as, and a continuation of, the Canadian affiliate.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(8).

Branch-establishment dividend.

851.22.40. Notwithstanding any other provision of this Act, where a dividend is paid or is deemed to be paid by a Canadian affiliate of an entrant bank to the entrant bank or to a person that is affiliated with the entrant bank and that is

resident in the country in which the entrant bank is resident, and the Canadian affiliate and the entrant bank make the election under subsection 9 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to have subsection 10 of that section 142.7 apply in respect of the dividend, the dividend is deemed, except for the purposes of sections 739 and 741 to 745, not to be a taxable dividend.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(9) and (10).

Treatment of losses after the winding-up of a Canadian affiliate.

851.22.41. For the purposes of the provisions of Title VII of Book IV for the purpose of computing the taxable income of an entrant bank for any taxation year that begins after the issue of the dissolution order described in subparagraph *i* of paragraph *a* of subsection 12 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or after the commencement of the winding-up of a Canadian affiliate of the entrant bank, as the case may be, the rules in the second paragraph apply where

(a) the affiliate has been wound up or the dissolution order has been issued, within the period referred to in paragraph *c* of subsection 11 of section 142.7 of the Income Tax Act in relation to the entrant bank;

(b) the entrant bank carries on all or part of the business in Canada that was formerly carried on by the Canadian affiliate; and

(c) the Canadian affiliate and the entrant bank make a valid election for the purposes of subsection 12 of section 142.7 of the Income Tax Act.

Rules.

The rules to which the first paragraph refers are as follows:

(a) subject to subparagraphs *b* and *e*, the portion of a non-capital loss of the Canadian affiliate for a taxation year, in this subparagraph referred to as the “Canadian affiliate’s non-capital loss year”, that can reasonably be regarded as being its loss from carrying on a business in Canada, in this subparagraph referred to as the “loss business”, is deemed, for the taxation year of the entrant bank in which the Canadian affiliate’s non-capital loss year ended, to be a non-capital loss of the entrant bank from carrying on the loss business that was not deductible by the entrant bank in computing its taxable income for any taxation year that began before the date of the dissolution order or the commencement of the winding-up, as the case may be, to the extent that

i. the portion of the non-capital loss of the Canadian affiliate was not deducted in computing the taxable income of the Canadian affiliate or any other entrant bank for any taxation year, and

ii. the portion of the non-capital loss of the Canadian affiliate would have been deductible in computing the taxable income of the Canadian affiliate for any taxation year that begins after the date of the dissolution order or the commencement of the winding-up, as the case may be, if it had such a taxation year and if it had sufficient income for that year;

(b) if at any time control of the Canadian affiliate or entrant bank has been acquired by a person or group of persons, no amount in respect of the Canadian affiliate's non-capital loss for a taxation year that ends before that time is deductible in computing the taxable income of the entrant bank for a particular taxation year that ends after that time, except that the portion of the loss that can reasonably be regarded as the Canadian affiliate's loss from carrying on a business in Canada and, where a business was carried on by the Canadian affiliate in Canada in the preceding year, the portion of the loss that can reasonably be regarded as being attributable to an amount deductible under section 725.1.1 in computing its taxable income for the year are deductible only if that business is carried on by the Canadian affiliate or the entrant bank for profit or with a reasonable expectation of profit throughout the particular year, and to the extent of the aggregate of the entrant bank's income for the particular year from that business, and where properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, from any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services;

(c) subject to subparagraphs *d* and *e*, a net capital loss of the Canadian affiliate for a taxation year, in this subparagraph referred to as the "Canadian affiliate's loss year", is deemed to be a net capital loss of the entrant bank for its taxation year in which the Canadian affiliate's loss year ended to the extent that the loss

i. was not deducted in computing the taxable income of the Canadian affiliate or any other entrant bank for any taxation year, and

ii. would have been deductible in computing the taxable income of the Canadian affiliate for any taxation year beginning after the date of the dissolution order or the commencement of the winding-up, as the case may be, if the Canadian affiliate had such a taxation year and if it had sufficient income and taxable capital gains for the year;

(d) if at any time control of the Canadian affiliate or the entrant bank has been acquired by a person or group of persons, no amount in respect of the Canadian affiliate's net capital loss for a taxation year that ended before that time is deductible in computing the entrant bank's taxable income for a taxation year that ends after that time; and

(e) any loss of the Canadian affiliate that would otherwise be deemed by subparagraph *a* or *c* to be a loss of the entrant

bank for a particular taxation year that begins after the date of the dissolution order or the commencement of the winding-up, as the case may be, is deemed, for the purpose of computing the entrant bank's taxable income for taxation years that begin after that date, to be such a loss of the entrant bank for its preceding taxation year and not for the particular year, if the entrant bank makes the election under paragraph *h* of subsection 12 of section 142.7 of the Income Tax Act for the particular year.

Presumption.

For the purposes of subparagraph *b* of the second paragraph, where sections 564.2 to 564.4 applied to the winding-up of another corporation in respect of which the Canadian affiliate was the parent and sections 564.4.1 to 564.4.3 applied in respect of losses of that other corporation, the Canadian affiliate is deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(12).

Winding-up of a Canadian affiliate.

851.22.42. Where an entrant bank and its Canadian affiliate have at any time made a joint election under section 851.22.34 or 851.22.41, the following rules apply:

(a) in respect of any transfer of property, directly or indirectly, by the Canadian affiliate to the entrant bank or a person with whom the entrant bank does not deal at arm's length,

i. subparagraph iii of subparagraph *b* of the second paragraph of section 93.3.1 shall be read without reference to subparagraph 5 thereof,

ii. (*subparagraph repealed*);

iii. subparagraph *b* of the first paragraph of section 175.9 shall be read without reference to subparagraph iv thereof, and

iv. subparagraph *b* of the second paragraph of section 238.1 shall be read without reference to subparagraph v thereof;

(b) in respect of any property of the Canadian affiliate appropriated to or for the benefit of the entrant bank or any person with whom the entrant bank does not deal at arm's length, section 424 shall be read without reference to subparagraph *d* of its second paragraph; and

(c) for the purpose of applying sections 93.3.1, 175.9 and 238.1 in relation to any property that was disposed of by the affiliate, after the dissolution or winding-up of the affiliate, the entrant bank is deemed to be the same corporation as, and a continuation of, the affiliate.

History: 2004, c. 8, s. 170; 2009, c. 5, s. 357; 2019, c. 14, s. 278.

Corresponding Federal Provision: 142.7(13).

Rules applicable to specified debt obligations after the winding-up of a Canadian affiliate.

851.22.43. Where a Canadian affiliate of an entrant bank and the entrant bank meet the conditions set out in subparagraphs *a* and *b* of the first paragraph of section 851.22.41 and make a valid election under subsection 14 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Canadian affiliate has not made an election under that section with any other entrant bank, the entrant bank is deemed to be the same corporation as, and a continuation of, the Canadian affiliate for the purposes of paragraphs *c* and *d* of section 851.22.11 in respect of any specified debt obligation disposed of by the Canadian affiliate.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(14).

Requirements for the validity of an election.

851.22.44. Where an election to which any of sections 851.22.34, 851.22.40 and 851.22.43 or subparagraph *d* of the first paragraph of section 851.22.38, subparagraph *a* or *b* of the first paragraph of section 851.22.39 or subparagraph *c* of the first paragraph or subparagraph *e* of the second paragraph of section 851.22.41, has been made, the prescribed form, with a copy of every document sent to the Minister of Revenue of Canada in connection with that election, shall be sent to the Minister.

History: 2004, c. 8, s. 170.

Corresponding Federal Provision: 142.7(11).

TITLE VI RELIGIOUS ORGANIZATIONS

CHAPTER I DEFINITIONS AND GENERALITIES

Definitions:

851.23. In this Title,

"adult";

(a) "adult" means an individual who is married or has attained the age of 18 years;

"business agency";

(b) "business agency" of a congregation at any time in a particular calendar year means a corporation, trust or other person, where the congregation owned all the shares of the capital stock of the corporation, except directors' qualifying shares, every interest in the trust or every participating interest in the other person, throughout the portion of the particular calendar year throughout which both the

congregation and the corporation, trust or other person, as the case may be, were in existence;

"congregation";

(c) "congregation" means a body of individuals, whether or not incorporated,

- i. the members of which live and work together,
- ii. that adheres to the practices and beliefs of the religious organization of which it is a constituent part,
- iii. that does not permit any of its members to own any property in their own right, and
- iv. that requires its members to devote their work to the activities of the congregation;

"family";

(d) "family" means an adult, his spouse and their children who are not adults or, in the case of an unmarried adult, that person and his children who are not adults, but does not include an individual who is included in any other family or who is not a member of the congregation in which the family is included;

"member of a congregation";

(e) "member of a congregation" means an adult, living with the members of the congregation, who conforms to the practices of the religious organization of which the congregation is a constituent part whether or not he has been formally accepted into the organization, and a child, other than an adult, of such adult, if the child lives with members of the congregation; and

"participating member";

(e.1) "participating member" of a congregation, in respect of a taxation year, means an individual who, at the end of the year, is an adult who is a member of the congregation;

"religious organization".

(f) "religious organization" means an organization, other than a registered charity, of which a congregation is a constituent part, that adheres to beliefs, evidenced by the religious and philosophical tenets of the organization, that include a belief in the existence of a supreme being.

History: 1978, c. 26, s. 166; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 2001, c. 53, s. 176.

Corresponding Federal Provision: 143(4).

Application of rules in ss. 851.25 to 851.27.

851.24. The rules in sections 851.25 to 851.27.1 apply to a congregation, or a business agency of a congregation, that carries on a business for purposes that include supporting or

sustaining the congregation's members or the members of any other congregation.

History: 1978, c. 26, s. 166; 2001, c. 53, s. 177.

Corresponding Federal Provision: 143(1) before (a).

Property deemed property of an *inter vivos* trust.

851.25. The property of the congregation is deemed to be the property of a trust which is deemed to have been created on the day that is the later of 31 December 1976 and the day the congregation came into existence and to have been continuously in existence from that day, and the corporation, where the congregation is a corporation, or other group of persons charged with the management of the congregation, in other cases, is deemed to be the trustee having control of the trust property.

Business agency.

The property of a business agency of the congregation in a calendar year is deemed to be property of the trust throughout the portion of the calendar year throughout which the trust exists.

History: 1978, c. 26, s. 166; 1997, c. 3, s. 71; 2001, c. 53, s. 177; 2017, c. 1, s. 247.

Corresponding Federal Provision: 143(1)(a) to (e).

Deemed agents of trust.

851.26. The congregation is deemed to act and have always acted as agent for the trust in respect of its businesses and other activities, and the members of the congregation are deemed to be the beneficiaries under the trust.

Business agency.

Each business agency of the congregation in a calendar year is deemed to have acted as agent for the trust in respect of its businesses and other activities in the year.

History: 1978, c. 26, s. 166; 2001, c. 53, s. 177.

Corresponding Federal Provision: 143(1)(g) to (i).

Deductions not allowed in computing the income of the trust.

851.27. In computing the income of the trust for any taxation year, no deduction may be made

(a) in respect of salaries, wages or benefits of any kind provided to the members of the congregation; and

(b) under paragraph *a* of section 657 and section 657.1, except to the extent that a portion of the trust's income, determined without reference to that paragraph *a* and section 657.1, is allocated to the members of the congregation in accordance with sections 851.28 to 851.30.

History: 1978, c. 26, s. 166; 2001, c. 53, s. 177; 2009, c. 5, s. 358.

Corresponding Federal Provision: 143(1)(k).

Application of ss. 119.2 to 119.11.

851.27.1. Sections 119.2 to 119.11 apply to a congregation or one of the business agencies of the congregation that is a corporation as if, except for the purposes of paragraph *a* of section 119.4 and of section 119.5 other than paragraphs *a* and *c* thereof, the property of the congregation and that of its business agencies were not deemed to be the property of a trust and as if this chapter were read without reference to section 851.26.

History: 1995, c. 49, s. 188; 1997, c. 3, s. 71; 2001, c. 53, s. 177; 2017, c. 1, s. 248.

Corresponding Federal Provision: 143(1)(m).

CHAPTER II ELECTION BY A TRUST

Election in respect of income.

851.28. The rules set out in sections 851.30 and 851.31 apply if a trust referred to in section 851.25, in respect of a congregation, makes a valid election under subsection 2 of section 143 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 for a taxation year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 2 of section 143 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1978, c. 26, s. 166; 1990, c. 59, s. 325; 2001, c. 53, s. 177; 2009, c. 5, s. 359.

Corresponding Federal Provision: 143(2) before (a).

Minister not bound.

851.29. The election referred to in the first paragraph of section 851.28 for a particular taxation year, in respect of a congregation, is not binding on the Minister unless it is binding on the Minister of National Revenue and all taxes, interest and penalties payable under this Part, as a consequence of the application of sections 851.28, 851.30 and 851.31 to the congregation for preceding taxation years, were paid at or before the end of the particular taxation year.

History: 1978, c. 26, s. 166; 1997, c. 31, s. 87; 2001, c. 53, s. 177; 2009, c. 5, s. 359.

Corresponding Federal Provision: 143(3).

Amount deemed allocated to each participating member.

851.30. For the purposes of paragraph *a* of section 657 and sections 657.1 and 663, in relation to a trust referred to in section 851.25, in respect of a congregation that, for a taxation year, makes the election referred to in the first paragraph of section 851.28, and subject to the third paragraph, the amount payable in the taxation year to a particular participating member of the congregation out of

the income of the trust, determined without reference to paragraph *a* of section 657 and section 657.1, is the amount determined by the formula

$$A \times B / C.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) *A* is the taxable income of the trust for the year, determined without reference to paragraph *a* of section 657, section 657.1 and specified tax consequences for the year;

(b) *B* is the amount determined for the year in respect of the particular participating member, under paragraph *a* of subsection 2 of section 143 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), because of the election; and

(c) *C* is the value, in respect of the trust for the year, of *A* in the formula in paragraph *a* of subsection 2 of section 143 of the Income Tax Act;

(d) *(subparagraph repealed)*;

(e) *(subparagraph repealed)*;

(f) *(subparagraph repealed)*.

Particular case.

However, when *C* in the formula in the first paragraph is, in respect of the trust for the year, an amount equal to zero, the amount determined by that formula for the year in respect of the particular participating member is deemed to be equal to zero.

History: 1978, c. 26, s. 166; 2001, c. 53, s. 177; 2009, c. 5, s. 360.

Corresponding Federal Provision: 143(2)(a).

Other consequences of election.

851.31. If, for a taxation year, a trust referred to in section 851.25, in respect of a congregation, makes the election referred to in the first paragraph of section 851.28, the member of each family at the end of the taxation year (referred to as a “designated member” for the purposes of subsection 2 of section 143 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the trust for the year) is deemed to have supported the other members of the family during the year and the other members of the family are deemed to have been wholly dependent on the designated member for support during the year.

History: 1978, c. 26, s. 166; 2001, c. 53, s. 177; 2009, c. 5, s. 361.

Corresponding Federal Provision: 143(2)(b).

851.32. *(Repealed)*.

History: 1978, c. 26, s. 166; 2001, c. 53, s. 177; 2009, c. 5, s. 362.

Election in respect of gifts.

851.33. If the eligible amount of a gift made in a taxation year by a trust referred to in section 851.25 in respect of a congregation would, but for this section, be included in the total charitable gifts, total cultural gifts, total gifts of qualified property or total musical instrument gifts of the trust for the year under the first paragraph of section 752.0.10.1, and the trust makes a valid election under subsection 3.1 of section 143 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the gift, the following rules apply:

(a) the trust is deemed not to have made the gift;

(b) each participating member of the congregation is deemed to have made, in the year, such a gift the eligible amount of which is the amount determined by the formula

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

Interpretation.

In the formula provided for in subparagraph *b* of the first paragraph,

(a) *A* is the eligible amount of the gift made by the trust;

(b) *B* is the value, in respect of the member for the year, of *B* in the formula in paragraph *b* of subsection 3.1 of section 143 of the Income Tax Act, in relation to the election; and

(c) *C* is the value, in respect of the trust for the year, of *C* in the formula in paragraph *b* of subsection 3.1 of section 143 of the Income Tax Act.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 3.1 of section 143 of the Income Tax Act.

History: 1993, c. 16, s. 304; 1993, c. 64, s. 95; 1995, c. 1, s. 94; 1995, c. 49, s. 236; 1999, c. 83, s. 121; 2001, c. 53, s. 178; 2006, c. 36, s. 88; 2009, c. 5, s. 363; 2017, c. 1, s. 249.

Corresponding Federal Provision: 143(3.1).

**TITLE VII
AMATEUR ATHLETES' RESERVE FUNDS**

Definitions:

851.33.1. In this Title,

“*amateur athlete*”;

“*amateur athlete*” at any time means an individual, other than a trust, who is, at that time,

(a) a member of a registered Canadian amateur athletic association;

(b) eligible to compete, in an international sporting event sanctioned by an international sports federation, as a Canadian national team member; and

(c) not a professional athlete;

“professional athlete”;

“professional athlete” means an individual who receives income that is compensation for, or is otherwise attributable to, the individual’s activities as a player or athlete in a professional sport;

“qualifying performance income”;

“qualifying performance income” of an individual means income that

(a) is received by the individual in a taxation year in which the individual was, at any time, an amateur athlete and was not, at any time, a professional athlete;

(b) may reasonably be considered to be in connection with the individual’s participation as an amateur athlete in one or more international sporting events referred to in paragraph *b* of the definition of “amateur athlete”; and

(c) is endorsement income, prize money, or income from public appearances or speeches;

“third party”.

“third party” in respect of an arrangement described in subparagraph *b* of the first paragraph of section 851.34 means a person who deals at arm’s length with the amateur athlete in respect of the arrangement.

History: 2010, c. 5, s. 81.

Corresponding Federal Provision: 143.1(1).

Qualifying arrangements.

851.34. The rules set out in the second paragraph apply if, at any time,

(a) a national sport organization that is a registered Canadian amateur athletic association receives an amount for the benefit of an individual under an arrangement made under rules of an international sport federation that require amounts to be held, controlled and administered by the organization in order to preserve the eligibility of the individual to compete in a sporting event sanctioned by the federation; or

(b) an individual enters into an arrangement that

i. is an account with an issuer described in paragraph *b* of the definition of “qualifying arrangement” in subsection 1 of section 146.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or that would be so described if that definition applied at that time,

ii. provides that no amount may be deposited, credited or added to the account, other than an amount that is qualifying performance income of the individual or that is interest or

other income in respect of the property deposited, credited or added to the account,

iii. provides that a third party must authorize all payments from the account, and

iv. is not a registered retirement savings plan or a tax-free savings account.

Reserve fund for amateur athletes.

The rules to which the first paragraph refers, in respect of an arrangement, are the following:

(a) a trust (in this Title referred to as the “amateur athlete trust”) is deemed to be created on the day on which the first amount under the arrangement is received by the national sport organization or by the issuer, as the case may be, and to exist continuously afterwards until section 851.36 or 851.37 applies in respect of the trust;

(b) the property held under the arrangement is deemed to be the property of the amateur athlete trust and not property of any other person;

(c) if, at any time, the national sport organization or the issuer, as the case may be, receives an amount under the arrangement and the amount would, in the absence of this paragraph, be included in computing the income of the individual in respect of the arrangement for the individual’s taxation year that includes that time, the amount is deemed to be income of the amateur athlete trust for the taxation year and not to be income of the individual;

(d) if, at any time, the national sport organization or the issuer, as the case may be, pays or transfers an amount under the arrangement to or for the benefit of the individual, the amount is deemed to be an amount distributed at that time to the individual by the amateur athlete trust;

(e) the individual is deemed to be the beneficiary under the amateur athlete trust;

(f) the national sport organization or the third party, as the case may be, in respect of the arrangement is deemed to be the trustee of the amateur athlete trust; and

(g) no tax is payable under this Part by the amateur athlete trust on its taxable income for any taxation year.

History: 1994, c. 22, s. 283; 1999, c. 83, s. 122; 2000, c. 5, s. 187; 2005, c. 23, s. 122; 2009, c. 5, s. 364; 2010, c. 5, s. 82; 2017, c. 1, s. 250.

Corresponding Federal Provision: 143.1(1.1) and (1.2).

Amounts included in the beneficiary’s income.

851.35. The beneficiary of an amateur athlete trust shall, in computing his income for a taxation year, include the

aggregate of all amounts distributed in the year to him by the trust.

History: 1994, c. 22, s. 283; 2009, c. 5, s. 365.

Corresponding Federal Provision: 143.1(2).

Termination of an amateur athlete trust.

851.36. Where an amateur athlete trust holds property on behalf of a beneficiary who has not competed in an international sporting event as a Canadian national team member for a period of eight years that ends in a particular taxation year and that begins in the year that is the later of the two years described in the second paragraph, the trust is deemed to have distributed, at the end of the particular taxation year to the beneficiary, an amount equal to

(a) where the trust is liable to pay tax under Part XII.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the particular taxation year, 64% of the fair market value of all property held by it at that time; and

(b) in any other case, the fair market value of all property held by it at that time.

Interpretation.

The years referred to in the first paragraph are

(a) where the beneficiary has competed in an international sporting event as a Canadian national team member, the year in which the beneficiary last so competed; and

(b) the year in which the trust was created.

History: 1994, c. 22, s. 283; 2009, c. 5, s. 366.

Corresponding Federal Provision: 143.1(3).

Death of a beneficiary.

851.37. Where an amateur athlete trust holds property on behalf of a beneficiary who dies in a year, the trust is deemed to have distributed, immediately before the death, to the beneficiary, an amount equal to

(a) where the trust is liable to pay tax under Part XII.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the year, 64% of the fair market value of all property held by it at that time; and

(b) in any other case, the fair market value of all property held by it at that time.

History: 1994, c. 22, s. 283; 2009, c. 5, s. 367.

Corresponding Federal Provision: 143.1(4).

TITLE VIII

COST OF A TAX SHELTER INVESTMENT AND LIMITED-RECOURSE DEBT RELATING TO A GIFTING ARRANGEMENT

CHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

Definitions:

851.38. In this Title,

“expenditure”;

“expenditure” means an outlay or expense or the cost or capital cost of a property;

“limited partner”;

“limited partner” has the meaning that would be assigned by section 613.6 if that section were read without reference to “if the member’s partnership interest is not an exempt interest, within the meaning assigned by section 613.7, at that time and”;

“limited-recourse amount”;

“limited-recourse amount” means the unpaid principal amount of any indebtedness for which recourse is limited, either immediately or in the future and either absolutely or contingently;

“taxpayer”;

“taxpayer” includes a partnership;

“tax shelter investment”.

“tax shelter investment” means

(a) a property that is a tax shelter for the purposes of section 1079.1; or

(b) a taxpayer’s interest in a partnership where

i. an interest in the taxpayer is a tax shelter investment and the taxpayer’s partnership interest would be a tax shelter investment if

(1) this Act were read without reference to this paragraph and to “, having regard to statements or representations made or proposed to be made in connection with the property,” in the definition of “tax shelter” in the first paragraph of section 1079.1, and

(2) the references, in subparagraphs *a* and *b* of the second paragraph of section 1079.1, to “represented” and to “is represented” were read as “that can reasonably be expected” and “can reasonably be expected”, respectively,

ii. another interest in the partnership is a tax shelter investment, or

iii. the taxpayer’s interest in the partnership entitles the taxpayer, directly or indirectly, to a share of the income or loss of a particular partnership where

(1) another taxpayer holding a partnership interest is entitled, directly or indirectly, to a share of the income or loss of the particular partnership, and

(2) that other taxpayer's partnership interest is a tax shelter investment.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(1).

At-risk adjustment.

851.39. For the purposes of this Title, an at-risk adjustment in respect of an expenditure of a particular taxpayer, other than the cost of a partnership interest to which sections 613.2 to 613.4 apply, is, subject to the second paragraph, any amount or benefit that the particular taxpayer, or another taxpayer not dealing at arm's length with the particular taxpayer, is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain, whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness, or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of

(a) any loss that the taxpayer may sustain in respect of the expenditure; or

(b) where the expenditure is the cost or capital cost of a property, any loss from the holding or disposition of the property.

Amount or benefit not included.

An at-risk adjustment does not include an amount or benefit to the extent that

(a) the amount or benefit is, in respect of the taxpayer, referred to in paragraph *e* of section 399, paragraph *h* of section 412 or paragraph *e* of section 418.6; or

(b) the entitlement to the amount or benefit arises

i. because of a contract of insurance with an insurance corporation dealing at arm's length with the taxpayer, and, where the expenditure is the cost of an interest in a partnership, with each member of the partnership, under which the taxpayer is insured against any claim arising as a result of a liability incurred in the ordinary course of carrying on the business of the taxpayer or the partnership,

ii. as a consequence of the death of the taxpayer,

iii. in respect of an amount not included in the expenditure, determined without reference to paragraph *b* of section 851.41, or

iv. by reason of an excluded obligation, as defined in the regulations made under section 359.1, in relation to a share

issued to the taxpayer or, where the expenditure is the cost of an interest in a partnership, to the partnership.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(4) and (5).

Amount or benefit.

851.40. For the purposes of section 851.39,

(a) the amount or benefit to which a taxpayer is at any time entitled and that is provided by way of an agreement or other arrangement under which the taxpayer has a right, either immediately or in the future and either absolutely or contingently, otherwise than as a consequence of the death of the taxpayer, to acquire property shall not be considered to be less than the fair market value of the property at that time; and

(b) the amount or benefit to which a taxpayer is at any time entitled and that is provided by way of a guarantee, security or similar covenant in respect of any loan or other obligation of the taxpayer shall not be considered to be less than the aggregate of the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(6).

CHAPTER II
COMPUTATION OF THE COST OF A TAX
SHELTER INVESTMENT AND OF A
LIMITED-RECOURSE DEBT RELATING TO A
GIFTING ARRANGEMENT

Amount of expenditure.

851.41. Notwithstanding any other provision of this Part, the amount of any expenditure that is a taxpayer's tax shelter investment, the cost or capital cost of such tax shelter or the amount of any expenditure of a taxpayer an interest in which is a tax shelter investment, shall be reduced, where applicable, to the amount by which the amount of the taxpayer's expenditure otherwise determined exceeds the aggregate of

(a) any limited-recourse amount of the taxpayer and of any other taxpayer not dealing at arm's length with the taxpayer that may reasonably be considered to relate to the expenditure;

(b) the taxpayer's at-risk adjustment in respect of the expenditure; and

(c) each amount that is a limited-recourse amount, or an at-risk adjustment, that may reasonably be considered to relate to the expenditure and that is determined under this Title when this Title is applied to any other taxpayer who

deals at arm's length with and holds, directly or indirectly, an interest in the taxpayer.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(6.1).

Limited-recourse debt in respect of gift.

851.41.1. The limited-recourse debt in respect of a gift of a taxpayer, at the time the gift is made, is equal to the aggregate of

(a) each limited-recourse amount at that time of the taxpayer and of any other taxpayer not dealing at arm's length with the taxpayer, that can reasonably be considered to relate to the gift;

(b) each limited-recourse amount at that time, determined under this Title when it is applied to any other taxpayer who deals at arm's length with and holds, directly or indirectly, an interest in the taxpayer, that can reasonably be considered to relate to the gift; and

(c) each amount that is the unpaid amount at that time of any other indebtedness, of any taxpayer referred to in paragraph *a* or *b*, that can reasonably be considered to relate to the gift if there is a guarantee, security or similar covenant in respect of that or any other indebtedness.

History: 2009, c. 5, s. 370.

Corresponding Federal Provision: 143.2(6.1).

Repayment of indebtedness.

851.42. For the purposes of this Title, the unpaid principal of an indebtedness is deemed to be a limited-recourse amount unless

(a) at the time the indebtedness was incurred, *bona fide* arrangements, evidenced in writing, were made for repayment by the debtor of the indebtedness and all interest on the indebtedness within a reasonable period not exceeding 10 years;

(b) the indebtedness bears interest at a rate equal to or greater than the lesser of

i. the prescribed rate of interest in effect at the time the indebtedness was incurred, and

ii. the prescribed rate of interest applicable during the term of the indebtedness; and

(c) the interest is payable at least annually and is paid in respect of the indebtedness by the debtor not later than 60 days after the end of each taxation year of the debtor that ends in the period referred to in paragraph *a*.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(7).

Limited-recourse amount.

851.43. For the purposes of this Title, the unpaid principal of an indebtedness is deemed to be a limited-recourse amount of a taxpayer that is a partnership, where the recourse against any member of the partnership in respect of the indebtedness is limited, either immediately or in the future and either absolutely or contingently.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(8).

Timing.

851.44. Where at any time a taxpayer has paid an amount, in this section referred to as the "repaid amount", on account of the principal amount of an indebtedness that was, before that time, the unpaid principal amount of a loan or any other form of indebtedness in respect of an expenditure of the taxpayer to which the first paragraph of section 851.39 applies, in this section referred to as the "former amount or benefit", the following rules apply:

(a) at all times before that time, the former amount or benefit is considered to have been an amount or benefit referred to in the first paragraph of section 851.39 in respect of the taxpayer; and

(b) subject to section 851.41, the expenditure is deemed to have been made or incurred at that time by the payment of, and to the extent of, the repaid amount.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(9).

Timing.

851.45. Where at any time a taxpayer has paid an amount, in this section referred to as the "repaid amount", on account of the principal amount of an indebtedness that was, before that time, a limited-recourse amount, in this section referred to as the "former limited-recourse indebtedness", relating to an expenditure of the taxpayer, the following rules apply:

(a) at all times before that time, the former limited-recourse indebtedness is considered to have been a limited-recourse amount; and

(b) subject to section 851.41, the expenditure is deemed to have been made or incurred at that time by the payment of, and to the extent of, the repaid amount.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(10).

Short-term debt.

851.46. Sections 851.42 and 851.43 do not apply to an indebtedness the principal of which is repaid by a taxpayer not later than 60 days after the indebtedness was incurred and that would otherwise be considered to be a limited-recourse

amount solely because of the application of any of those sections unless

(a) any portion of the repayment is made with a limited-recourse amount; or

(b) the repayment may reasonably be considered to be part of a series of indebtedness and repayments that ends more than 60 days after the indebtedness was incurred.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(11).

Series of loans or repayments.

851.47. For the purposes of paragraph *a* of section 851.42, a debtor is deemed not to have made arrangements to repay an indebtedness within 10 years where the debtor's arrangement to repay can reasonably be considered to be part of a series of indebtedness and repayments that ends more than 10 years after it begins.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(12).

CHAPTER III ADMINISTRATION

Information located outside Canada.

851.48. For the purposes of this Title, the unpaid principal of an indebtedness that relates to a taxpayer's expenditure or gift is deemed to be a limited-recourse amount relating to the expenditure or gift, if it may reasonably be considered that information relating to the indebtedness is available outside Canada and the Minister is not satisfied that the unpaid principal of the indebtedness is not a limited-recourse amount unless

(a) the information is provided to the Minister; or

(b) the information is located in a country with which the Government of Québec has entered into a tax agreement that has force of law in Québec and includes a provision under which the Minister can obtain the information.

History: 2001, c. 7, s. 132; 2009, c. 5, s. 371.

Corresponding Federal Provision: 143.2(13).

Information located outside Canada.

851.49. For the purposes of this Title, a taxpayer is deemed not to be dealing at arm's length with another taxpayer where it may reasonably be considered that information relating to whether the taxpayer and the other taxpayer are not dealing with each other at arm's length is available outside Canada and the Minister is not satisfied that the taxpayer is dealing at arm's length with the other taxpayer unless

(a) the information is provided to the Minister; or

(b) the information is located in a country with which the Government of Québec has entered into a tax agreement that has force of law in Québec and includes a provision under which the Minister can obtain the information.

History: 2001, c. 7, s. 132.

Corresponding Federal Provision: 143.2(14).

Assessments.

851.50. Notwithstanding section 1010, the Minister may, to give effect to the provisions of this Title, in respect of a taxpayer, redetermine the tax, interest and penalties payable under this Part and make a reassessment or an additional assessment, as the case may be,

(a) within thirteen years after the later of the day of sending of a notice of an original assessment or of a notice that no tax is payable for a taxation year in which an indebtedness that is a limited-recourse amount arose or the day on which a fiscal return for the taxation year is filed;

(b) within fourteen years after the day referred to in paragraph *a* if, at the end of the taxation year concerned, the taxpayer is a mutual fund trust or a corporation other than a Canadian controlled private corporation.

History: 2001, c. 7, s. 132; 2004, c. 4, s. 8; I.N. 2016-01-01 (NCCP).

Corresponding Federal Provision: 143.2(15).

TITLE IX LOWER ST.LAWRENCE PILOTS' PENSION PLAN

Definitions:

851.51. For the purposes of this Title,

“Authority”;

“Authority” means the Laurentian Pilotage Authority established by subsection 1 of section 3 of the Pilotage Act (Revised Statutes of Canada, 1985, chapter P-14);

“CPBSL”;

“CPBSL” means the Corporation of the Lower St.Lawrence Pilots established by letters patent under Part II of the Canada Corporations Act, chapter 53 of the Revised Statutes of Canada, 1952, amended by chapter 52 of the Statutes of Canada, 1964-65, a body corporate contracting with the Authority for the services of pilots under the Pilotage Act, or any successor of the Corporation that carries on similar functions;

“CPHQ”;

“CPHQ” means the Corporation of Pilots for and below the Harbour of Quebec, established by chapter 123 of the Statutes of the Province of Canada, 1860 (23 Vict., c.123);

“eligible pilot”;

“eligible pilot” means a person who became a member of the CPHQ and was licensed by the Authority as a pilot before 1 January 1994, or who, on 31 December 1993, was an apprentice pilot and who, during 1994, became a member of the CPHQ and was licensed by the Authority as a pilot;

“fund”;

“fund” means the fund established by chapter 12 of the Statutes of the Province of Lower Canada, 1805 (45 George III, c. 12) and continued by chapter 114 of the Statutes of the Province of Canada, 1848-49 (12 Vict., c. 114), as amended;

“pension plan”;

“pension plan” means the plan established by the CPHQ for the administration of the fund;

“Société”.

“Société” means the general partnership composed of the members of the CPBSL and called Les Pilotes du Bas Saint-Laurent, or its successor, and includes any predecessor of the Société that carried on similar functions on behalf of those members.

History: 2001, c. 7, s. 133.

Contributions.

851.52. For the purposes of Title VI.0.1 of Book VII, any amount paid to the fund by the CPBSL is deemed to be a contribution made by the CPBSL as an employer and not by an eligible pilot.

History: 2001, c. 7, s. 133.

Status of CPHQ.

851.53. For the purposes of paragraph c.1 of section 998, the CPHQ is deemed to have been incorporated solely for the administration of a registered pension plan and to have operated at all times solely for that purpose.

History: 2001, c. 7, s. 133.

Sums not included in income.

851.54. For the purposes of this Part, sums paid into the fund by the CPBSL for any taxation year in respect of which the pension plan is a registered pension plan shall not be included in the income of an eligible pilot or in the income of the Société.

History: 2001, c. 7, s. 133.

TITLE X RESTRICTIONS AND LIMITATION ON EXPENDITURES

CHAPTER I DEFINITIONS

Definitions:

851.55. In this Title,

“contingent amount”;

“contingent amount”, of a taxpayer at any time when the taxpayer is not a bankrupt, includes an amount to the extent that the taxpayer, or another taxpayer that does not deal at arm’s length with the taxpayer, has a right to reduce the amount at that time;

“expenditure”;

“expenditure” of a taxpayer means an expense, expenditure or outlay made or incurred by the taxpayer, or a cost or capital cost of property acquired by the taxpayer;

“option”;

“option” means

(a) a security that is issued or sold by a taxpayer under an agreement referred to in section 48; or

(b) an option, warrant or similar right, issued or granted by a taxpayer, giving the holder the right to acquire an interest in the taxpayer or in another taxpayer with whom the taxpayer does not, at the time the option, warrant or similar right is issued or granted, deal at arm’s length;

“right to reduce”;

“right to reduce” means a right to reduce or eliminate an amount in respect of an expenditure at any time, including such a right that is contingent upon the occurrence of an event, or in any other way contingent, if it is reasonable to conclude, having regard to all the circumstances, that the right will become exercisable;

“taxpayer”.

“taxpayer” includes a partnership.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.3(1) and 143.4(1).

CHAPTER II RESTRICTIONS APPLICABLE TO AN EXPENDITURE

Application and purpose.

851.56. This chapter applies for the purpose of computing a taxpayer’s income, taxable income or tax payable or an amount deemed to have been paid by the taxpayer to the Minister on account of the taxpayer’s tax payable.

Limitation.

However, it does not apply

(a) for the purpose of determining the cost or capital cost of property in accordance with sections 440 and 454 to 462.0.2, Chapter IV of Title IX of Book III, the second paragraph of section 614, Chapter X of Title XII of Book III, Title I.2 or Chapter II or III of Title V; or

(b) for the purpose of determining the amount of a taxpayer’s expenditure that would, but for this subparagraph, be greater than the amount otherwise determined under Chapter II of Title VII of Book III or section 431.

Limitation.

Similarly, section 851.57 does not apply to reduce an expenditure that is a commission, fee or other consideration for services rendered by a person acting as a salesperson,

mandatary or dealer in securities in the course of the issuance of an option.

Limitation.

In addition, section 851.58 or 851.59, as the case may be, applies to reduce an expenditure of a taxpayer only to the extent that the expenditure includes an amount determined to be an excess under that section.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.3(2), (3), (4) before (a) part and (5).

Options — limitation.

851.57. An expenditure of a taxpayer is deemed not to include any portion of the expenditure that would, but for this section, be included in determining the expenditure because of the taxpayer having granted or issued an option.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.3(2).

Shares — limitation.

851.58. An expenditure of a corporation that would, but for this section, include an amount because of the corporation having issued a share of its capital stock at a particular time is reduced by

(a) if the issuance of the share is not a consequence of the exercise of an option, the amount by which the fair market value of the share at the particular time exceeds

i. if the transaction under which the share is issued is a transaction to which Chapter IV of Title IX of Book III or Chapter II or III of Title V applies, the amount determined in accordance with that chapter to be the cost to the corporation of the property acquired in consideration for issuing the share, or

ii. in any other case, the fair market value of the property transferred or issued to, or the services provided to, the corporation in consideration for issuing the share; or

(b) if the issuance of the share is a consequence of the exercise of an option, the amount by which the fair market value of the share at the particular time exceeds the amount paid, pursuant to the terms of the option, by the holder of the option to the corporation in consideration for issuing the share.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.3(3).

Interests — limitation.

851.59. An expenditure of a taxpayer (other than a corporation) that would, but for this section, include an amount because of the taxpayer having issued an interest, or

because of an interest being created, in itself at a particular time is reduced by

(a) if the issuance or creation of the interest is not a consequence of the exercise of an option, the amount by which the fair market value of the interest at the particular time exceeds

i. if the transaction under which the interest is issued or created is a transaction to which section 440, paragraph *c* of section 454.1, the second paragraph of section 614, Chapter X of Title XII of Book III or Title I.2 applies, the amount determined in accordance with that provision, chapter or Title, as the case may be, to be the cost to the taxpayer of the property acquired in consideration for the interest, or

ii. in any other case, the fair market value of the property transferred or issued to, or the services provided to, the taxpayer in consideration for the interest; and

(b) if the issuance or creation of the interest is a consequence of the exercise of an option, the amount by which the fair market value of the interest at the particular time exceeds the amount paid, pursuant to the terms of the option, by the holder of the option to the taxpayer in consideration for the interest.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.3(4).

**CHAPTER III
LIMITATION ON THE AMOUNT OF AN
EXPENDITURE**

Limitation of the amount of the expenditure.

851.60. For the purposes of this Part, the amount, at any time, of an expenditure of a taxpayer that occurs in a taxation year is the lesser of

(a) the amount of the expenditure at the time, calculated under this Part but without reference to this chapter; and

(b) the amount obtained by subtracting, from the amount of the expenditure determined in accordance with paragraph *a*, the amount by which the aggregate of all amounts each of which is a contingent amount of the taxpayer in the year in respect of the expenditure exceeds the aggregate of all amounts each of which is

i. an amount paid by the taxpayer to obtain a right to reduce an amount in respect of the expenditure, or

ii. a limited-recourse amount for the purposes of section 851.41 that reduces the expenditure under that section to the extent that the amount is also a contingent amount described in this paragraph in respect of the expenditure.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.4(2).

Payment of a contingent amount.

851.61. Where, in a particular taxation year, a taxpayer pays all or a portion of a contingent amount referred to in paragraph *b* of section 851.60 that reduces the amount of the taxpayer's expenditure referred to in paragraph *a* of that section, the portion of the contingent amount paid by the taxpayer in the particular year for the purpose of earning income is, for the purposes of this Part, deemed

(a) to have been incurred by the taxpayer in the particular year;

(b) to have been incurred for the same purpose and to have the same character as the expenditure so reduced; and

(c) to have become payable by the taxpayer in respect of the particular year.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.4(3).

Subsequent years.

851.62. Where, at any time in a taxation year that is after a particular taxation year in which an expenditure of a taxpayer occurred, the taxpayer, or another taxpayer not dealing at arm's length with the taxpayer, has a right to reduce an amount in respect of the expenditure that would, if that right had been held by either of those taxpayers in the particular year, have resulted in section 851.60 applying in the particular year to reduce or eliminate the amount of the expenditure, the subsequent contingent amount in respect of the expenditure, as determined under the second paragraph, is deemed, subject to section 851.63 and to the extent that section 851.60 and this paragraph have not previously applied in respect of the expenditure, to have been received

(a) by the taxpayer at the time in the course of earning income from a business or property from a person described in paragraph *w* of section 87; and

(b) as a refund, reimbursement, contribution or allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of an amount included in, or deducted as, the cost of property or in respect of an outlay or expense.

Subsequent contingent amount.

A taxpayer's subsequent contingent amount in respect of an expenditure of the taxpayer is the amount by which the maximum amount by which a particular amount in respect of the expenditure may be reduced in accordance with a right to reduce the particular amount exceeds the amount, if any, paid to obtain that right.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.4(4) and (5).

Anti-avoidance.

851.63. The right which a taxpayer, or another taxpayer that does not deal at arm's length with the taxpayer, has to reduce an amount in respect of an expenditure of the taxpayer in a taxation year that is after the particular taxation year in which the expenditure occurred, determined without reference to section 851.61, is deemed to be held by the taxpayer in the particular year if it is reasonable to conclude having regard to all the circumstances that one of the purposes for which that right was held by the taxpayer, or by the other taxpayer, after the end of the year was to avoid the application of section 851.60 in respect of the expenditure.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.4(6).

Assessments.

851.64. Despite sections 1010 to 1011, the Minister may make such assessments of tax, interest and penalties, or such determinations and redeterminations as are necessary to give effect to this chapter.

History: 2017, c. 1, s. 251.

Corresponding Federal Provision: 143.4(7).

BOOK VII**PROFIT SHARING PLANS AND OTHER SPECIAL INCOME ARRANGEMENTS****TITLE I****PROFIT SHARING PLAN****CHAPTER I****GENERAL RULES****Definitions:**

852. In this Title,

"unused portion of the exempt capital gains balance";

"unused portion of the exempt capital gains balance" of a beneficiary in respect of a trust governed by a profit sharing plan, at any time in a taxation year of the beneficiary, means

(a) if the year ends before 1 January 2005, the amount by which the beneficiary's exempt capital gains balance, within the meaning of section 251.1, in respect of the trust for the year exceeds the aggregate of all amounts each of which is an amount by which a capital gain is reduced under Chapter II.1 of Title IV of Book III for the year because of the beneficiary's exempt capital gains balance in respect of the trust; or

(b) if the year ends after 31 December 2004, the amount by which the amount that would, if the definition of "exempt capital gains balance" in the first paragraph of section 251.1 were read without reference to "that ends before 1 January 2005", be the beneficiary's exempt capital gains balance in respect of the trust for the year, exceeds

i. where there has been a disposition of an interest or a part of an interest of the beneficiary in the trust after the beneficiary's taxation year 2004, other than a disposition that is a part of a transaction described in paragraph *c* of section 858 in which property is received as consideration for all or a portion of the beneficiary's interests in the trust, the aggregate of all amounts each of which is an amount by which the adjusted cost base of an interest or a part of an interest disposed of by the beneficiary, other than an interest or a part of an interest that is all or a portion of the beneficiary's interests referred to in paragraph *c* of section 858, was increased because of paragraph *c.4* of section 255, and

ii. in any other case, nil;

“profit sharing plan”.

“profit sharing plan” at a particular time means an arrangement

(a) under which payments computed by reference to an employer's profits from the employer's business, the profits from the business of a corporation with which the employer does not deal at arm's length or the profits from the business of the employer and of any such corporation, are required to be made by the employer to a trustee under the arrangement for the benefit of employees of the employer or of a corporation with which the employer does not deal at arm's length; and

(b) in respect of which the trustee has, since the later of the beginning of the arrangement and the end of 1949, allocated, either contingently or absolutely, to those employees

i. in each year that ended at or before the particular time, all amounts received in the year by the trustee from the employer or from a corporation with which the employer does not deal at arm's length,

ii. in each year ending at or before the particular time, all profits for the year from the property of the trust, determined without regard to any capital gain made by the trust or capital loss sustained by it at any time after 31 December 1955,

iii. in each year that ended after 31 December 1971 and at or before the particular time, all capital gains and capital losses of the trust for the year,

iv. in each year that ended after 31 December 1971, before 1 January 1993 and at or before the particular time, 100/15 of the aggregate of all amounts each of which is deemed by section 864 to have been paid on account of tax under this Part in respect of an employee because the employee ceased to be a beneficiary under the plan in the year, and

v. in each year that ended after 31 December 1991 and at or before the particular time, the aggregate of all amounts each of which is an amount that an employee is entitled to deduct under section 864 in computing his income because the

employee ceased to be a beneficiary under the plan in the year.

History: 1972, c. 23, s. 640; 1991, c. 25, s. 176; 1993, c. 19, s. 71; 1995, c. 49, s. 189; 1997, c. 3, s. 71; 2000, c. 5, s. 188.

Corresponding Federal Provision: 144(1).

Payments out of profits.

853. For the purposes of section 852, if the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments are to be made out of profits, the arrangement is deemed, if the employer makes a valid election under subsection 10 of section 144 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the arrangement, to be an arrangement under which payments computed by reference to the employer's profits are to be made.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 10 of section 144 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 641; 1995, c. 49, s. 189; 2009, c. 5, s. 372.

Corresponding Federal Provision: 144(10).

Taxation year of trust.

854. Where, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a profit sharing plan is accepted by the Minister of Revenue of Canada for registration as a deferred profit sharing plan, the taxation year of the trust governed by the profit sharing plan is deemed, for the purposes of this Part, to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 5 of section 147 of the said Act.

History: 1972, c. 23, s. 642; 1991, c. 25, s. 97; 2000, c. 5, s. 293.

Corresponding Federal Provision: 144(11).

No tax while trust governed by plan.

855. No tax is payable under this Part by a trust for a taxation year throughout which the trust is governed by a profit sharing plan.

History: 1972, c. 23, s. 643; 1995, c. 49, s. 190.

Corresponding Federal Provision: 144(2).

**CHAPTER II
COMPUTATION OF INCOME**

Deduction of employer's contribution.

856. An employer may deduct in computing his income, for a taxation year, any amount which he pays to a trust under a profit sharing plan in that year or within 120 days

thereafter, to the extent that such amount was not deductible in computing income for a previous taxation year.

History: 1972, c. 23, s. 644.

Corresponding Federal Provision: 144(5).

Amounts included in computing income of beneficiary.

857. A beneficiary must include in computing his income for a taxation year an amount which he receives in the year from a trustee under a profit sharing plan, except to the extent that such amount is allocated to:

- (a) a payment made by the employee to the trustee;
- (b) a capital gain made by the trust before 1972;
- (c) a capital gain of the trust for a taxation year ending after 1971 to the extent allocated by such trust to the beneficiary;
- (d) a gain made by the trust after 1971 from the disposition of a capital property, except to the extent that the gain is a capital gain made by trust for a taxation year ending after 1971;
- (e) a dividend received by the trust from a taxable Canadian corporation, other than a dividend described in section 501, to the extent allocated by the trust to the beneficiary;
- (f) an amount which must be included in computing the income of the employee for that year or a previous year; or
- (g) the portion of the increase in the value of property transferred to the beneficiary by the trust that would have been in 1971 a capital gain for it if it had sold it at its fair market value on 31 December 1971.

Deduction of portion of capital losses of trust.

The portion of capital losses of the trust for its taxation years ending after 1971 that has been allocated by the trust to the beneficiary must however be deducted from the amount contemplated in one of the subparagraphs of the first paragraph if such portion has not been applied to reduce the amount contemplated in another of such paragraphs.

History: 1972, c. 23, s. 645; 1973, c. 17, s. 100; 1977, c. 26, s. 90; 1978, c. 26, s. 167; 1997, c. 3, s. 71.

Corresponding Federal Provision: 144(7).

Where property other than money received by beneficiary.

858. Where a beneficiary receives, from a trust under a profit sharing plan at any particular time in its taxation year, an amount which is property other than money, the following rules apply to such property:

- (a) the amount of the cost amount to the trust of the property immediately before such time is deemed to be the proceeds of the disposition of the property therefor;

(b) that proportion of such portion of the amount received by the beneficiary, as determined in section 857, as is attributable to an amount referred to in any of subparagraphs *a* to *g* of the first paragraph of that section, that the cost amount to the trust of the property immediately before the particular time is of the cost amount to the trust of all properties so received by the beneficiary at the particular time, is, subject to paragraph *c*, deemed to be both the cost to the beneficiary of the property and, for the purposes of section 857, the amount so received by the beneficiary by virtue of the receipt by the beneficiary of the property; and

(c) where the property is received as consideration for all or a portion of the beneficiary's interests in the trust and the beneficiary files with the Minister on or before the beneficiary's filing-due date for the beneficiary's taxation year that includes the particular time an election in respect of the property, the beneficiary shall include in the cost to the beneficiary of the property determined under paragraph *b* the least of

i. the amount by which the unused portion of the beneficiary's exempt capital gains balance in respect of the trust at the particular time exceeds the aggregate of all amounts each of which is an amount included because of this paragraph in the cost to the beneficiary of another property received by the beneficiary at or before the particular time in the year,

ii. the amount by which the fair market value of the property at the particular time exceeds the amount deemed by paragraph *b* to be the cost to the beneficiary of the property, and

iii. the amount designated in the election in respect of the property.

History: 1973, c. 17, s. 101; 2000, c. 5, s. 189.

Corresponding Federal Provision: 144(7.1).

When property other than money received by beneficiary.

859. An employee who is a beneficiary under a profit sharing plan must include in computing his income for a taxation year each amount that is allocated to him, contingently or absolutely, by the trustee under the plan at any time in the year, except in the case of an allocation in respect of an amount described in any of subparagraphs *a* to *d* of the first paragraph of section 857 or a dividend received by the trust from a taxable Canadian corporation.

History: 1972, c. 23, s. 646; 1973, c. 17, s. 102; 1977, c. 26, s. 91; 1989, c. 5, s. 156; 1995, c. 49, s. 191; 1997, c. 3, s. 71.

Corresponding Federal Provision: 144(3).

Capital gains or losses deemed those of a beneficiary.

860. Each capital gain or capital loss from the disposition of any property by a trust governed by a profit sharing plan is deemed, to the extent that it is allocated by the trust to one of its beneficiaries, to be such a capital gain or capital loss of

the beneficiary from the disposition of that property for the taxation year of the beneficiary in which the allocation was made and, for the purposes of Title VI.5 of Book IV, the property is deemed to have been disposed of by the beneficiary on the day on which it was disposed of by the trust.

History: 1972, c. 23, s. 647; 1996, c. 39, s. 236.

Corresponding Federal Provision: 144(4).

Election related to the disposition of each property of a trust governed by a profit sharing plan.

861. Notwithstanding section 66 of the Act respecting the application of the Taxation Act (chapter I-4), where the trustee of a trust governed by a profit sharing plan so elects before 1976, in prescribed manner, the trust is deemed to have disposed on 31 December 1971 of each property owned by the trust at that time and to have received proceeds therefrom equal to the fair market value thereof on such date and to have reacquired it for the same amount on 1 January 1972.

Presumption.

Such presumption shall be valid only if the trustee has, before 1976, allocated to the beneficiaries under the plan all the capital gains and capital losses resulting from such deemed dispositions.

History: 1975, c. 22, s. 221; 1994, c. 22, s. 284.

Corresponding Federal Provision: 144(4.1).

Election related to the disposition of each property of a trust governed by a profit sharing plan.

862. Where the trustee of a trust governed by a profit sharing plan so elects in prescribed form and prescribed manner in a taxation year ending after 1973, the trust is deemed to have disposed, on the day indicated by the trustee, of any capital property owned by it and to have reacquired it immediately for proceeds or, as the case may be, at a cost equal to the amount, indicated by the trustee, situated between the adjusted cost base to the trust for the property on that day and its fair market value on the same day, or equal to such cost or such value.

Rule applicable.

If the trust was governed by a profit sharing plan on 31 December 1971, such election is valid only if the trustee has made the election referred to in section 861.

History: 1975, c. 22, s. 221; 2001, c. 53, s. 179.

Corresponding Federal Provision: 144(4.2).

Taxable dividends allocated to beneficiary.

863. Where, in computing its income for a taxation year, a trust governed by a profit sharing plan has included a taxable dividend of a taxable Canadian corporation, the portion of the dividend allocated for the year to an employee who is a

beneficiary of the plan is deemed to have been received by him as a taxable dividend of such corporation not exceeding the amount that would be included in computing his income for the year if the exception provided in section 859 did not refer to an allocation regarding a dividend received by a trust from a taxable Canadian corporation.

History: 1972, c. 23, s. 648; 1977, c. 26, s. 92; 1997, c. 3, s. 71.

Corresponding Federal Provision: 144(8).

Employee ceasing to be a beneficiary.

864. Where a person ceases at any time in a taxation year to be a beneficiary under a profit sharing plan and does not again become a beneficiary under the plan after that time and in the year, the person may deduct in computing his income for the year the amount determined by the formula

$$A - B - (C / 4) - D.$$

Interpretation.

For the purposes of the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is an amount included in computing the person's income for the year or a preceding taxation year, other than an amount received before that time under the plan or an amount under the plan that the person is entitled at that time to receive, because of an allocation, other than an allocation to which section 860 applies, to the person made contingently under the plan before that time;

(b) B is the portion of the amount that is included in the aggregate determined under subparagraph *a* because of the second paragraph of section 497;

(c) C is the aggregate of all taxable dividends deemed to be received by the person because of an allocation under section 863 in respect of the plan; and

(d) D is the aggregate of all amounts deductible under this section in computing the person's income for a preceding taxation year because the person ceased to be a beneficiary under the plan in a preceding taxation year.

History: 1972, c. 23, s. 649; 1995, c. 49, s. 192; 2001, c. 7, s. 134.

Corresponding Federal Provision: 144(9).

Foreign tax deduction.

865. For the purposes of sections 772.2 to 772.13, if, in relation to a taxation year, a trust governed by a profit sharing plan designates, after 19 December 2006 and in accordance with paragraph *a* of subsection 8.1 of section 144 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an amount of income in respect of a particular employee who is a beneficiary under the plan, the lesser of that amount and the portion, described in section 866, of the income of the trust for the year from sources that are other than a business carried on by it and that

are situated in a foreign country, is deemed to be, for the particular employee, income from such sources for the year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under paragraph *a* of subsection 8.1 of section 144 of the Income Tax Act or in relation to a designation made under this section before 20 December 2006.

History: 1972, c. 23, s. 650; 1973, c. 17, s. 103; 1995, c. 63, s. 95; 2009, c. 5, s. 373.

Corresponding Federal Provision: 144(8.1)(a) before (i).

Determination of portion of income.

866. The portion of income to which the first paragraph of section 865 refers is the portion that is not deemed under that paragraph to be income of an employee other than the particular employee and that may reasonably be considered, having regard to the circumstances and terms of the trust arrangement, as being included in

(a) an amount included under section 859 in computing the income of the particular employee; or

(b) the amount by which the aggregate of every capital gain of the trust that is deemed to be a capital gain of the particular employee under section 860, exceeds the aggregate of every capital loss of the trust that is deemed to be a capital loss of the particular employee under that section.

History: 1973, c. 17, s. 103; 2009, c. 5, s. 373.

Corresponding Federal Provision: 144(8.1)(a)(i) and (ii).

Foreign tax deduction for an employee who is a beneficiary under a profit sharing plan.

867. For the purposes of sections 772.2 to 772.13, an employee who is a beneficiary under a profit sharing plan is deemed to have paid as non-business-income tax for a taxation year to the government of the country referred to in the first paragraph of section 865 or to the government of a political subdivision of that country, in respect of the income that is deemed for him under that section 865 to be income for the year from sources situated in that country, an amount equal to the proportion, determined under section 868, of the non-business-income tax, within the meaning of section 772.2, paid to that government for the year by the trust governed by the profit sharing plan.

History: 1973, c. 17, s. 103; 1995, c. 63, s. 96; 2009, c. 5, s. 374.

Corresponding Federal Provision: 144(8.1)(b) before (i).

Income tax payable by employee.

868. The income tax payable by the employee contemplated by section 867 is the proportion thereof represented by the ratio between the income that the employee is deemed, under section 865, to have from sources situated in the foreign country and the income of the trust

from such sources, except for income from a business it carries on therein.

History: 1973, c. 17, s. 103.

Corresponding Federal Provision: 144(8.1)(b)(i) and (ii).

869. (Repealed).

History: 1977, c. 26, s. 93; 1989, c. 5, s. 157; 1995, c. 49, s. 193.

TITLE I.1

EMPLOYEE LIFE AND HEALTH TRUST

CHAPTER I

INTERPRETATION

Definitions:

869.1. In this Title,

“actuary”;

“actuary” means a Fellow of the Canadian Institute of Actuaries;

“class of beneficiaries”;

“class of beneficiaries” of a trust means a group of beneficiaries who have identical rights or interests under the trust;

“designated employee benefit”;

“designated employee benefit” means a benefit from a group sickness or accident insurance plan, a group term life insurance policy or a private health services plan;

“employee”;

“employee” means an employee or former employee of an employer and includes an individual in respect of whom the employer has assumed responsibility for the provision of designated employee benefits as a result of the acquisition by the employer of a business in which the individual was employed;

“key employee”.

“key employee”, of an employer in respect of a taxation year, means an employee who

(a) was at any time in the year or in a preceding taxation year, a specified employee of the employer; or

(b) was an employee whose employment income from the employer in any two of the five taxation years preceding the year exceeded five times the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (chapter R-9), for the calendar year in which the employment income was earned.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(1).

Employee life and health trust.

869.2. A trust that is established for employees of one or more employers (each referred to in this section and in section 869.6 as a “participating employer”) is an employee

life and health trust for a taxation year if, throughout the year, under the terms that govern the trust,

(a) the only purpose of the trust is to provide designated employee benefits to, or for the benefit of, persons described in subparagraph i or ii of paragraph *d*;

(b) on wind-up or reorganization, the property of the trust may only be distributed to

i. each remaining beneficiary of the trust who is described in subparagraph i or ii of paragraph *d* (other than a key employee or an individual who is related to a key employee) on a pro rata basis,

ii. another employee life and health trust, or

iii. after the death of the last beneficiary described in subparagraph i or ii of paragraph *d*, the State or Her Majesty in right of Canada or a province, other than Québec;

(c) the trust is required to be resident in Canada;

(d) the trust may not have any beneficiaries other than persons each of whom is

i. an employee of a participating employer,

ii. an individual who, in respect of an employee of a participating employer, is (or, if the employee is deceased, was, at the time of the employee's death)

(1) the spouse of the employee, or

(2) related to the employee and either a member of the employee's household or dependent on the employee for support,

iii. another employee life and health trust, or

iv. the State or Her Majesty in right of Canada or a province, other than Québec;

(e) the trust contains at least one class of beneficiaries where

i. the members of the class represent at least 25% of all of the beneficiaries of the trust who are employees of the participating employer, and

ii. at least 75% of the members of the class are not key employees of the participating employer;

(f) the rights under the trust of each key employee of a participating employer are not more advantageous than the rights of a class of beneficiaries described in paragraph *e*;

(g) no participating employer, nor any person who does not deal at arm's length with a participating employer, has any rights under the trust as a beneficiary or otherwise, except rights

i. to designated employee benefits,

ii. to enforce undertakings, warranties or similar obligations regarding

(1) the maintenance of the trust as an employee life and health trust, or

(2) the operation of the trust in a manner that prevents section 869.3 from applying to prohibit the deduction of an amount by the trust under section 657, or

iii. to prescribed payments;

(h) the trust may not make a loan to, or an investment in, a participating employer or a person or partnership with whom the participating employer does not deal at arm's length; and

(i) representatives of one or more participating employers do not constitute the majority of the trustees of the trust or otherwise control the trust.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(2).

CHAPTER II COMPUTATION OF INCOME

Deductions disallowed.

869.3. No amount may be deducted in a taxation year by an employee life and health trust under paragraph a of section 657 if the trust

(a) is not operated in the year in accordance with the terms required by section 869.2 to govern the trust; or

(b) is operated or maintained in the year primarily for the benefit of one or more key employees or their family members described in subparagraph ii of paragraph *d* of section 869.2.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(3).

Deductibility of employer contributions.

869.4. For the purpose of computing the income of an employer, the following rules apply:

(a) the employer may deduct for a taxation year the portion of its contributions to an employee life and health trust made in the year that may reasonably be regarded as having been contributed to enable the trust to

i. pay premiums to an insurance corporation that is licensed to provide insurance under the laws of Canada or a province for insurance coverage for the year or a preceding taxation year in respect of designated employee benefits for beneficiaries described in subparagraph i or ii of paragraph *d* of section 869.2, or

ii. otherwise provide

(1) group term life insurance as described in clause B of subparagraph iii of paragraph *a* of subsection 9 of section 18 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or

(2) any designated employee benefits payable in the year or a preceding taxation year to, or for the benefit of, beneficiaries described in subparagraph i or ii of paragraph *d* of section 869.2; and

(b) the portion of any contribution made to an employee life and health trust that exceeds the amount deductible under paragraph *a* and that may reasonably be regarded as enabling the trust to provide or pay benefits described in subparagraphs i and ii of paragraph *a* in a subsequent taxation year is deductible for that year.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(4).

Actuarial determination.

869.5. For the purposes of section 869.4, if, in respect of an employer's obligations to fund an employee life and health trust, a report has been prepared by an independent actuary, using accepted actuarial principles and practices, before the time of a contribution by the employer, the portion of the contribution that the report specifies to be the amount that the employee life and health trust is reasonably required to pay or incur in a taxation year in order to provide designated employee benefits to beneficiaries described in subparagraph i or ii of paragraph *d* of section 869.2 for a taxation year is, in the absence of evidence to the contrary, presumed to have been contributed to enable the trust to provide those benefits for the year.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(5).

Multi-employer plans.

869.6. Despite subsection 1 of section 175.1 and section 869.4, an employer may deduct in computing its income for a taxation year an amount that it is required to contribute for the year to an employee life and health trust if the following conditions are met at the time that the contribution is made:

(a) it is reasonable to expect that

i. at no time in the year will more than 95% of the employees who are beneficiaries of the trust be employed by a single employer or by a related group of employers, and

ii. at least 15 employers will contribute to the trust in respect of the year or at least 10% of the employees who are beneficiaries of the trust will be employed in the year by more than one participating employer;

(b) employers contribute to the trust under a collective bargaining agreement and in accordance with a negotiated contribution formula that does not provide for any variation in contributions determined by reference to the financial experience of the trust; and

(c) contributions that are to be made by each employer are determined, in whole or in part, by reference to the number of hours worked by individual employees of the employer or some other measure that is specific to each employee with respect to whom contributions are made to the trust.

Presumption.

For the purposes of subparagraph ii of subparagraph *a* of the first paragraph, all employers who are related to each other are deemed to be a single employer.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(6).

Maximum deductible.

869.7. The amount deducted in a taxation year by an employer in computing its income in respect of contributions made to an employee life and health trust may not exceed the amount determined by the formula

$A - B.$

Interpretation.

In the formula in the first paragraph,

(a) A is the total of the contributions made by the employer to the trust in the year or in a preceding taxation year; and

(b) B is the total of the amounts deducted by the employer in a preceding taxation year in respect of the contributions made by the employer to the trust.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(7).

Employer promissory note.

869.8. If an employer issues a promissory note or provides other evidence of its indebtedness to an employee life and health trust in respect of its obligation to the trust, the following rules apply:

(a) the issuance of the note or the provision of the evidence of indebtedness to the trust is not a contribution to the trust; and

(b) a payment by the employer to the trust in full or partial satisfaction of its liability under the note or the evidence of indebtedness, whether stated to be of principal or interest or any other amount, is deemed to be an employer contribution

to the trust that is subject to this Title and not a payment of principal or interest on the note or indebtedness.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(8).

Trust status — subsequent times.

869.9. For the purpose of determining whether an amount is deductible by an employer under section 869.4, if a trust was an employee life and health trust at the time that a promissory note or other evidence of indebtedness referred to in section 869.8 was issued or provided, the trust is deemed to be an employee life and health trust at each time that an employer contribution is deemed to be made under paragraph *b* of section 869.8 in respect of the note or other indebtedness.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(9).

Employee contributions.

869.10. For the purposes of section 43 and paragraph *p* of section 752.0.11.1, employee contributions to an employee life and health trust, to the extent that they are, and are identified by the trust at the time of contribution as, contributions in respect of a particular designated employee benefit, are deemed to be payments by the employee in respect of the particular designated employee benefit.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(10).

Income inclusion.

869.11. If a trust that is, or was, at any time, an employee life and health trust pays an amount as a distribution from the trust to any person in a taxation year, the amount of the distribution must be included in computing the person's income for the year, except to the extent that the amount is

(a) a payment of a designated employee benefit that is not included in computing the person's income because of Chapters I and II of Title II of Book III; or

(b) a distribution to another employee life and health trust that is a beneficiary of the employee life and health trust.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(11).

Deemed separate trust.

869.12. If contributions have been received by an employee life and health trust from more than one employer, the trust is deemed to be a separate trust established in respect of the property held for the benefit of beneficiaries described in subparagraph i or ii of paragraph *d* of section 869.2 in respect of a particular employer, if

(a) the trustee makes a valid election under paragraph *a* of subsection 12 of section 144.1 of the Income Tax Act

(Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(b) under the terms of the trust, contributions from the employer and the income derived from those contributions accrue solely for the benefit of those beneficiaries.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *a* of subsection 12 of section 144.1 of the Income Tax Act.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(12).

Non-capital losses.

869.13. No non-capital loss is deductible by an employee life and health trust in computing its taxable income for a taxation year, except as provided by sections 727 and 727.1.

History: 2011, c. 6, s. 174.

Corresponding Federal Provision: 144.1(13).

TITLE II DEFERRED PROFIT SHARING PLAN

CHAPTER I GENERAL RULES

Definitions:

870. In this Title,

“deferred profit sharing plan”;

“deferred profit sharing plan” means a plan accepted as such by the Minister of Revenue of Canada for registration for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the registration of which is in force;

“forfeited amount”.

“forfeited amount” under a deferred profit sharing plan or a plan the registration of which has been revoked under subsection 14 or 14.1 of section 147 of the Income Tax Act means an amount to which a beneficiary under the plan has ceased to have any rights, other than that portion of the amount that is payable, as a consequence of the death of the beneficiary, to a person who is entitled thereto by virtue of the participation of the beneficiary in the plan.

History: 1972, c. 23, s. 651; 1991, c. 25, s. 99; 2000, c. 5, s. 293.

Corresponding Federal Provision: 147(1).

“other beneficiary”.

871. In this Title, the words “other beneficiary”, in the expression “employee or other beneficiary”, mean a person other than the employee, to whom an amount is or becomes payable by a trust governed by a deferred profit sharing plan

following payments made to the trust under the plan for the benefit of employees, including the employee concerned.

History: 1972, c. 23, s. 652; 1991, c. 25, s. 99.

Corresponding Federal Provision: 147(17).

CHAPTER II

(Repealed).

872. *(Repealed).*

History: 1972, c. 23, s. 653; 1984, c. 15, s. 191; 1986, c. 15, s. 129; 1991, c. 25, s. 100.

873. *(Repealed).*

History: 1972, c. 23, s. 654; 1991, c. 25, s. 100.

874. *(Repealed).*

History: 1972, c. 23, s. 655; 1991, c. 25, s. 100.

875. *(Repealed).*

History: 1972, c. 23, s. 656; 1991, c. 25, s. 100.

CHAPTER III

REVOCATION OF REGISTRATION

876. *(Repealed).*

History: 1972, c. 23, s. 657; 1975, c. 83, s. 84; 1991, c. 25, s. 101.

876.1. *(Repealed).*

History: 1984, c. 15, s. 192; 1991, c. 25, s. 101.

877. *(Repealed).*

History: 1972, c. 23, s. 658; 1977, c. 26, s. 94; 1991, c. 25, s. 101.

878. *(Repealed).*

History: 1972, c. 23, s. 659; 1975, c. 22, s. 222; 1991, c. 25, s. 101.

Rules applicable.

879. Where, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the registration of a plan is revoked under subsection 14 or 14.1 of section 147 of the said Act, the following rules apply:

(a) *(subparagraph repealed);*

(b) section 880 does not apply to a taxation year of a trust which is, at any time in the year, governed by such a plan;

(c) *(subparagraph repealed);*

(d) a taxpayer shall include in computing his income for a taxation year:

i. all amounts received by him in the year under such a plan that would otherwise have been included in computing his income under section 885, and

ii. the amount or value of the funds or property appropriated to or for the benefit of the taxpayer in the year, where such amount or value would otherwise have been included in computing his income under section 889 at the time of the appropriation of the funds or property;

(e) a plan the registration of which is revoked is deemed, for the purposes of this Part, not to be a profit sharing plan or a retirement compensation arrangement.

Revocation before 1 January 1991.

For the purposes of this Part, a plan the registration of which is revoked before 1 January 1991 under sections 876 and 876.1, as they read before that date, that was not accepted again for registration under this Part before that date, is deemed, as of that date, to be a plan the registration of which has been revoked under subsection 14 or 14.1 of section 147 of the Income Tax Act.

History: 1972, c. 23, s. 660; 1991, c. 25, s. 102.

Corresponding Federal Provision: 147(15)(b), (d) and (e).

CHAPTER IV TAX

No tax payable by trust governed by plan.

880. No tax is payable by a trust under this Part for the period during which it is governed by a deferred profit sharing plan.

History: 1972, c. 23, s. 661; 1991, c. 25, s. 103.

Corresponding Federal Provision: 147(7).

CHAPTER V DEDUCTIONS

Amounts of employer's contribution deductible.

881. An employer may deduct, in computing his income for a taxation year, the amount that, by virtue of subsection 8 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), is allowed as a deduction for the year in computing his income for the purposes of the said Act.

History: 1972, c. 23, s. 662; 1972, c. 26, s. 63; 1976, c. 18, s. 14; 1979, c. 38, s. 25; 1982, c. 5, s. 153; 1984, c. 15, s. 193; 1991, c. 25, s. 104.

Corresponding Federal Provision: 147(8), (9) and (9.1).

882. *(Repealed).*

History: 1972, c. 23, s. 663; 1991, c. 25, s. 105.

Portion of receipts deductible.

883. For the purposes of sections 884, 885 and 886, where an employee or other beneficiary receives, in a taxation year, an amount from a trustee under a deferred profit sharing plan and the employee was a beneficiary under the plan while the plan was a profit sharing plan, the amount determined for the year, under this section, in relation to the plan and in respect of the beneficiary is such portion of the aggregate of the amounts so received in the year as does not exceed the remainder after subtracting

(a) the aggregate of each amount:

i. received by the employee or other beneficiary in a previous taxation year from a trustee under the plan while it was a profit sharing plan or a deferred profit sharing plan; and

ii. allocated to the employee or other beneficiary under the plan while it was a profit sharing plan, in respect of a capital loss sustained by the trust before 1972; from

(b) the aggregate of each amount:

i. included in respect of the plan in computing the income of the employee for the year or a previous year under sections 852 to 865;

ii. paid by him to the trustee under the plan while it was a profit sharing plan; and

iii. allocated to the employee or other beneficiary by a trustee under the plan while it was a profit sharing plan, in respect of a capital gain made by the trust before 1972.

History: 1972, c. 23, s. 664; 1973, c. 17, s. 104; 1991, c. 25, s. 106.

Corresponding Federal Provision: 147(11).

Portion of receipts deductible.

884. For the purposes of sections 885 and 886, where an employee or other beneficiary receives, in a taxation year, an amount from a trustee under a deferred profit sharing plan and the employee has made a payment in the year or a previous taxation year to a trustee under the plan while it was a deferred profit sharing plan, the amount determined for the year, under this section, in relation to the plan and in respect of the beneficiary, is such portion of the aggregate of the amounts so received in the year, minus any amount determined for the year under section 883 in relation to the plan and in respect of the beneficiary, as does not exceed the amount by which

(a) the aggregate of each amount so paid by the employee in the year or a previous year, to the extent that such amount was not deductible by the employee in computing his income, exceeds

(b) the aggregate of each amount received by the employee or other beneficiary from a trustee under the plan while it was a deferred profit sharing plan, to the extent that such amount was included in computing the amount determined under this section for a previous year in relation to the plan and in respect of the employee or other beneficiary.

History: 1972, c. 23, s. 665; 1973, c. 17, s. 105; 1991, c. 25, s. 107.

Corresponding Federal Provision: 147(12).

CHAPTER VI**AMOUNTS TO BE INCLUDED****Amounts included in computing the income of a beneficiary.**

885. A beneficiary under a deferred profit sharing plan shall, in computing the income of the beneficiary for a taxation year, include the amount by which the aggregate of all amounts received by the beneficiary in the year from a trustee under the plan, other than as a result of acquiring an annuity described in subparagraph iv of paragraph *k* of subsection 2 of section 147 of the French text of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under which the beneficiary is the annuitant, exceeds the aggregate of all amounts each of which is an amount determined for the year under section 883, 884 or 886 in relation to the plan and in respect of the beneficiary.

History: 1972, c. 23, s. 666; 1973, c. 17, s. 106; 1991, c. 25, s. 108; 1998, c. 16, s. 209.

Corresponding Federal Provision: 147(10).

Amounts included in computing income of beneficiary.

885.1. A beneficiary described in paragraph *k.2* of subsection 2 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) shall include, in computing his income for a taxation year, the aggregate of amounts allocated or reallocated to him in the year in respect of an amount paid, after 1 December 1982, by an employer to a trust governed by a deferred profit sharing plan or a plan the registration of which has been revoked under subsection 14 or 14.1 of section 147 of the said Act, or a forfeited amount under any such plan.

History: 1984, c. 15, s. 194; 1991, c. 25, s. 108.

Corresponding Federal Provision: 147(10.3).

Single payment on withdrawal, retirement or death.

886. For the purposes of sections 885 and 888, where a beneficiary under a deferred profit sharing plan receives, in a taxation year and when the beneficiary is resident in Canada, from a trustee under the plan, on the beneficiary's withdrawal from the plan or retirement from employment or on the death of an employee or former employee, a single payment that includes shares of the capital stock of a corporation that is an employer who contributes to the plan or shares of the capital stock of a corporation with which the employer does not deal at arm's length and the beneficiary makes a valid election under subsection 10.1 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th

Supplement) in respect of the payment, the amount determined for the year under this section in relation to the plan and in respect of the beneficiary is equal to the amount by which the fair market value of those shares, immediately before the single payment is made, exceeds the cost amount to the plan of those shares at that time.

History: 1973, c. 17, s. 107; 1987, c. 67, s. 164; 1991, c. 25, s. 108; 1997, c. 3, s. 71; 1997, c. 85, s. 198.

Corresponding Federal Provision: 147(10.1).

887. *(Repealed).*

History: 1973, c. 17, s. 107; 1987, c. 67, s. 165.

Effect of election by beneficiary.

888. Where a trustee under a deferred profit sharing plan has, at any time in a taxation year, made under the plan a single payment that included shares referred to in section 886 to a beneficiary who was resident in Canada at the time and the beneficiary has made the election referred to in section 886 in respect of that payment, the following rules apply:

(a) the trustee is deemed to have disposed of those shares for proceeds of disposition equal to the cost amount to the trust of those shares immediately before the single payment was made;

(b) the cost to the beneficiary of those shares is deemed to be equal to their cost amount to the trust immediately before the single payment was made;

(c) the cost to the beneficiary of each of those shares is deemed to be equal to the proportion of the amount determined under paragraph *a* in respect of all those shares that the fair market value of the share at the time the single payment was made is of that of all those shares at the same time;

(d) for the application of paragraph *d* of section 339 to the taxation years 1989 and 1990, the cost to the beneficiary of those shares is an eligible amount in respect of the beneficiary for the year.

History: 1973, c. 17, s. 107; 1987, c. 67, s. 166; 1991, c. 25, s. 109; 1997, c. 85, s. 199.

Corresponding Federal Provision: 147(10.2).

Income on disposal of shares.

888.1. A taxpayer who has a share in respect of which he has made the election referred to in section 886 shall include in computing his income for the taxation year in which he disposed of or exchanged the share or ceased to be resident in Canada, whichever is the earlier, the amount by which the fair market value of the share at the time he acquired it exceeds the cost to him, determined under paragraph *c* of section 888, of the share at the time he acquired it.

History: 1987, c. 67, s. 166; 1997, c. 85, s. 200.

Corresponding Federal Provision: 147(10.4).

888.2. *(Repealed).*

History: 1987, c. 67, s. 166; 2003, c. 2, s. 254.

888.3. *(Repealed).*

History: 1998, c. 16, s. 210; 2009, c. 5, s. 375.

Annuity contract amended.

888.4. If an amendment is made to an annuity contract to which subparagraph vi of paragraph *k* of subsection 2 of section 147 of the English version of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies, the sole effect of which is to defer annuity commencement to not later than the end of the year in which the individual in respect of whom the annuity contract was purchased reaches 71 years of age, the annuity contract is deemed not to have been disposed of by the individual.

History: 2009, c. 5, s. 376.

Corresponding Federal Provision: 147(10.5).

Appropriation of trust property by employer.

889. (1) An employer who contributes to a deferred profit sharing plan or a corporation with which he does not deal at arm's length shall include, in computing his or its income for a taxation year, the amount or value of the funds or property of a trust governed by such a plan that are appropriated to or for his or its benefit in any manner whatever in that year.

Application.

(2) The rule provided in subsection 1 does not apply if the appropriation results from a payment for shares of the employer or corporation by the trust, or if the funds or property, or an amount equal to their value, are repaid to the trust within one year from the end of the taxation year and if it is established that the repayment has not been made as part of a series of appropriations and repayments.

History: 1972, c. 23, s. 667; 1991, c. 25, s. 110; 1997, c. 3, s. 71.

Corresponding Federal Provision: 147(13).

Inadequate consideration on purchase from or sale to trust.

890. Where a trust governed by a deferred profit sharing plan or by a plan the registration of which has been revoked under subsection 14 or 14.1 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) disposes of property to a taxpayer for no consideration or for a consideration less than its fair market value at the time of the disposition, or acquires property from a taxpayer for a consideration greater than its fair market value at the time of the acquisition, the taxpayer who acquires or disposes of the property is deemed, for the purposes of sections 879 and 885, to have received at that

time from the trust under the plan, as a beneficiary under the trust, an amount equal to the difference between that fair market value and the consideration, if any.

History: 1972, c. 23, s. 668; 1975, c. 22, s. 223; 1991, c. 25, s. 110.

Corresponding Federal Provision: 147(18).

CHAPTER VII TRANSFERS

Transfers.

890.0.1. An amount is transferred from a deferred profit sharing plan in accordance with this section if the following conditions are met:

- (a) the amount is not part of a series of periodic payments;
- (b) the amount is transferred on behalf of an individual described in the second paragraph in full or partial satisfaction of his entitlement to benefits under the plan;
- (c) the amount would, if it were paid directly to the individual, be included in computing his income for a taxation year under section 885;
- (d) the amount is transferred for the benefit of the individual directly to any of the following plans or funds:
 - i. a registered pension plan,
 - ii. a registered retirement savings plan under which the individual is the annuitant, within the meaning of paragraph *b* of section 905.1,
 - iii. a deferred profit sharing plan that can reasonably be expected to have at least five beneficiaries at all times throughout the calendar year in which the transfer is made, or
 - iv. a registered retirement income fund under which the individual is the annuitant within the meaning of paragraph *d* of section 961.1.5.

Interpretation.

The individual referred to in subparagraph *b* of the first paragraph is an individual

- (a) who is an employee or former employee of an employer who participated in the plan on the employee's behalf, or
- (b) who was the spouse or former spouse of the employee at the time of the employee's death and who is entitled to the amount referred to in subparagraph *b* of that paragraph
 - i. as a consequence of the death of an employee or former employee referred to in subparagraph *a*, or
 - ii. under a decree, an order or a judgment of a competent tribunal or under a written agreement relating to a partition of property between the employee or former employee and the

individual in settlement of rights arising out of, or on the breakdown of, their marriage.

History: 1991, c. 25, s. 111; 1994, c. 22, s. 285; 2009, c. 5, s. 377; 2017, c. 1, s. 252.

Corresponding Federal Provision: 147(19).

Taxation of an amount transferred.

890.0.2. Where an amount is transferred on behalf of an individual in accordance with section 890.0.1, the following rules apply:

- (a) the amount shall not, by reason only of that transfer, be included in computing the income of any individual by virtue of this Title, and
- (b) no amount is deductible under any provision of this Part in computing the income of any individual in respect of the amount transferred.

History: 1991, c. 25, s. 111.

Corresponding Federal Provision: 147(20).

Amount deemed not to be transferred.

890.0.3. Where the transfer of an amount from a deferred profit sharing plan in a calendar year on behalf of a beneficiary under the plan would, but for this section, be made in accordance with section 890.0.1 and, in the opinion of the Minister of Revenue of Canada, the requirements of subsection 5.1 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the plan are not satisfied for the year by reason that the beneficiary's pension credits or pension adjustments, within the meanings assigned by that Act, do not comply with any of paragraphs *a* to *c* of subsection 5.1 of the said section 147, such portion of the amount transferred as may reasonably be considered to derive from amounts allocated or reallocated to the beneficiary in the year or from earnings reasonably attributable to those amounts is deemed to be an amount that was not transferred in accordance with section 890.0.1, except to the extent expressly provided in writing by the Minister of Revenue of Canada for the purposes of subsection 22 of the said section 147.

History: 1991, c. 25, s. 111; 1995, c. 49, s. 194; 2000, c. 5, s. 293.

Corresponding Federal Provision: 147(22).

TITLE II.1 RETIREMENT COMPENSATION ARRANGEMENTS

CHAPTER I GENERAL RULES

Definitions:

890.1. In this Title, the expression

“subject property of a retirement compensation arrangement”;

(a) “subject property of a retirement compensation arrangement” means property that is held in connection with the arrangement;

“retirement compensation arrangement”;

(b) “retirement compensation arrangement” means a plan or arrangement under which contributions, other than payments made to acquire an interest in a life insurance policy, are made by an employer or former employer of a taxpayer, or by a person with whom the employer or former employer does not deal at arm’s length, to another person or partnership, in this Title referred to as the “custodian”, in connection with benefits that are to be or may be received or enjoyed by any person on, after or in contemplation of any substantial change in the services rendered by the taxpayer, the retirement of the taxpayer or the loss of an office or employment of the taxpayer;

“RCA trust”.

(c) “RCA trust” under a retirement compensation arrangement means

- i. any trust governed by the arrangement; and
- ii. any trust deemed by paragraph *a* of section 890.2 to be created in respect of subject property of the arrangement.

Exclusions.

For the purposes of subparagraph *b* of the first paragraph, a retirement compensation arrangement does not include

- (a) a registered pension plan;
 - (a.1) a pooled registered pension plan;
- (b) a disability or income maintenance insurance plan under a policy with an insurance corporation;
- (c) a deferred profit sharing plan;
- (d) a profit sharing plan;
- (e) a registered retirement savings plan;
- (f) an employee trust;
 - (f.1) an employee life and health trust;
- (g) a group sickness or accident insurance plan;
- (h) a supplementary unemployment benefit plan;
- (i) a trust described in paragraph *m* of section 998;
- (j) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for his services as such with a team that participates in a league

having regularly scheduled games, in this paragraph referred to as an “athlete’s plan”, where

- i. the plan or arrangement would, but for paragraph *j* of section 47.16, be a salary deferral arrangement; and
 - ii. in the case of a Canadian team, the custodian of the plan or arrangement carries on business through a fixed place of business in Canada and is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee;
- (k) a salary deferral arrangement, whether or not deferred amounts thereunder are required to be included as benefits under section 37 in computing a taxpayer’s income;
- (l) a plan or arrangement, other than an athlete’s plan, that is maintained primarily for the benefit of persons not resident in Canada in respect of services rendered outside Canada;
- (m) an insurance policy;
- (n) a prescribed plan or arrangement.

Deemed retirement compensation arrangement.

For the purposes of the definition of “retirement compensation arrangement”, where a particular person holds property in trust under an arrangement that, if the property were held by another person, would be a retirement compensation arrangement, the arrangement is deemed to be a retirement compensation arrangement of which the particular person is the custodian.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 112; 1991, c. 25, s. 176; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 14, s. 149; 2011, c. 6, s. 175; 2015, c. 21, s. 331.

Corresponding Federal Provision: 207.5(1) and 248(1).

Rules applicable.

890.2. In respect of the subject property of a retirement compensation arrangement, other than subject property of the arrangement held by a trust governed by a retirement compensation arrangement, for the purposes of this Part, the following rules apply:

- (a) a trust is deemed to be created on the day that the arrangement is established;
- (b) the subject property of the arrangement is deemed to be property of the trust and not to be property of any other person; and
- (c) the custodian of the arrangement is deemed to be the trustee having ownership or control of the trust property.

History: 1989, c. 77, s. 95; 2017, c. 1, s. 253.

Corresponding Federal Provision: 207.6(1)(a).

Interest in life insurance policy.

890.3. For the purposes of this Part, where by virtue of a plan or arrangement an employer is obliged to provide benefits that are to be received or enjoyed by any person on, after or in contemplation of any substantial change in the services rendered by a taxpayer, the retirement of a taxpayer or the loss of an office or employment of a taxpayer, and where the employer, former employer or a person or partnership with whom the employer or former employer does not deal at arm's length acquires an interest in a life insurance policy that may reasonably be considered to be acquired to fund, in whole or in part, those benefits, the rules set out in the second paragraph apply in respect of the plan or arrangement if it is not otherwise a retirement compensation arrangement and is not excluded from the definition of the expression "retirement compensation arrangement" by any of subparagraphs *a* to *l* and *n* of the second paragraph of section 899.1.

Rules.

The rules referred to in the first paragraph are the following:

- (a) the person or partnership referred to in the first paragraph who acquired the interest is deemed to be the custodian of a retirement compensation arrangement;
- (b) the interest is deemed to be subject property of the retirement compensation arrangement;
- (c) an amount equal to twice the amount of any premium paid in respect of the interest or any repayment of a policy loan thereunder is deemed to be a contribution under the retirement compensation arrangement; and
- (d) any payment received in respect of the interest, including a policy loan, and any amount received as a refund of refundable tax under subsection 2 of section 207.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed to be an amount received out of or under the retirement compensation arrangement by the recipient and not to be a payment of any other amount.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176; 1997, c. 3, s. 71; 2001, c. 53, s. 180.

Corresponding Federal Provision: 207.6(2).

Personal services business.

890.4. For the purposes of the provisions of this Part relating to retirement compensation arrangements, where a corporation that at any time carried on a personal services business or an employee of the corporation, enters into a plan or arrangement with a person or partnership, referred to in this section as the "employer", to which the corporation renders services, and where the plan or arrangement provides for benefits to be received or enjoyed by any person on, after or in contemplation of the cessation of, or any substantial change in, the services rendered by the corporation, or an

employee of the corporation, to the employer, the following rules apply:

- (a) the employer and the corporation are deemed to be an employer and employee, respectively, in relation to each other; and
- (b) any benefits to be received or enjoyed by any person under the plan or arrangement are deemed to be benefits to be received or enjoyed by the person on, after or in contemplation of a substantial change in the services rendered by the corporation.

History: 1989, c. 77, s. 95; 1997, c. 3, s. 71.

Corresponding Federal Provision: 207.6(3).

Change of plan custodian.

890.5. Where at any time an employee benefit plan becomes a retirement compensation arrangement as a consequence of a change of the custodian of the plan or as a consequence of the custodian ceasing either to carry on business through a fixed place of business in Canada or to be licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(a) for the purposes of this Part, the custodian of the plan is deemed to have made a contribution to the arrangement immediately after that time, in an amount equal to the fair market value at that time of all the properties of the plan; and

(b) for the purposes of sections 209.1 to 209.4, that amount is deemed to be a payment made at that time out of or under the plan to or for the benefit of employees or former employees of the employers who contributed to the plan.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176; 1996, c. 39, s. 273.

Corresponding Federal Provision: 207.6(4).

Residents' arrangement.

890.6. For the purposes of this Part, where a resident's contribution has been made under a plan or arrangement, in this section referred to as the "plan", the following rules apply:

(a) the plan is deemed, in respect of its application to all resident's contributions made under the plan and all property that can reasonably be considered to be derived from those contributions, to be a separate arrangement, in this section referred to as the "residents' arrangement", independent of the plan in respect of its application to all other contributions and property that can reasonably be considered to derive from those other contributions;

(b) the residents' arrangement is deemed to be a retirement compensation arrangement; and

(c) each person and partnership to whom a contribution is made under the residents' arrangement is deemed to be a custodian of the residents' arrangement.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176; 1995, c. 49, s. 195; 1997, c. 3, s. 71.

Corresponding Federal Provision: 207.6(5).

“resident’s contribution”.

890.6.1. For the purposes of section 890.6, “resident’s contribution” means such part of a contribution made under a plan or arrangement, in this section referred to as the “plan”, at a time when the plan would, but for subparagraph *l* of the second paragraph of section 890.1, be a retirement compensation arrangement as

(a) is not a contribution referred to in paragraph 4, 5 or 6 of section 6804 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(b) can reasonably be considered to have been made in respect of services rendered by an individual to an employer in a period

i. throughout which the individual was resident in Canada and rendered services to the employer that were primarily services rendered in Canada or services rendered in connection with a business carried on by the employer in Canada, or a combination of such services, and

ii. at the beginning of which the individual had been resident in Canada throughout at least 60 of the 72 preceding calendar months, where the individual was not resident in Canada at any time before the period and became a member of the plan before the end of the month after the month in which the individual became resident in Canada.

Application.

For the purposes of subparagraph *b* of the first paragraph, where benefits provided to an individual under a particular plan or arrangement are replaced by benefits under another plan or arrangement, the other plan or arrangement is deemed, in respect of the individual, to be the same plan or arrangement as the particular plan or arrangement.

History: 1995, c. 49, s. 196; 2001, c. 7, s. 135; 2010, c. 5, s. 83.

Corresponding Federal Provision: 207.6(5.1).

Separate arrangement.

890.7. For the purposes of this Part, other than this section, where a retirement compensation arrangement is part of a plan or arrangement under which amounts not related to the retirement compensation arrangement are payable or provided, the following rules apply:

(a) the retirement compensation arrangement is deemed to be a separate arrangement independent of other parts of the plan or arrangement of which it is a part; and

(b) subject to section 47.14, amounts paid out of or under the plan or arrangement are deemed to have first been paid out of the retirement compensation arrangement unless a provision in the plan or arrangement otherwise provides.

History: 1989, c. 77, s. 95.

Corresponding Federal Provision: 56(10).

CHAPTER II TAX

RCA trust.

890.8. No tax is payable by an RCA trust under this Part.

History: 1989, c. 77, s. 95.

CHAPTER III AMOUNTS TO BE INCLUDED

Amounts included.

890.9. A taxpayer shall include in computing his income for a taxation year

(a) any amount, including a return of contributions, received in the year by the taxpayer or another person, other than an amount required to be included in that other person’s income for a taxation year under section 890.11, out of or under a retirement compensation arrangement that can reasonably be considered to have been received in respect of an office or employment of the taxpayer;

(b) any amount received or that became receivable in the year by the taxpayer as proceeds from the disposition of an interest in a retirement compensation arrangement; and

(c) the aggregate of all amounts, including a return of contributions, each of which is an amount received in the year by the taxpayer out of or under a retirement compensation arrangement that can reasonably be considered to have been received in respect of an office or employment of a person other than the taxpayer, except to the extent that the amount was required

i. under section 890.11 to be included in computing the taxpayer’s income for a taxation year; or

ii. under paragraph *a* of this section or section 429 to be included in computing the income for the year of a person resident in Canada other than the taxpayer.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176.

Corresponding Federal Provision: 56(1)(x), (y) and (z).

Amount deemed received under arrangement.

890.10. For the purposes of paragraphs *a* and *c* of section 890.9, where, at any time in a year, a trust governed by a retirement compensation arrangement makes, in respect of property, any of the transactions described in the second paragraph, the amount, if any, by which the fair market value referred to in subparagraph *a*, *b* or *c* of the second paragraph differs from the consideration referred to therein or, if there is no consideration, the amount of the fair market value referred to therein is deemed to be an amount received at that time by the person out of or under the arrangement that can reasonably be considered to have been received in respect of an office or employment of a taxpayer.

Transactions.

The transactions referred to in the first paragraph are the following:

(a) the trust disposes of property to a person for consideration less than the fair market value of the property at the time of the disposition, or for no consideration;

(b) the trust acquires property from a person for consideration greater than the fair market value of the property at the time of the acquisition;

(c) the trust permits a person to use or enjoy property of the trust for no consideration or for consideration less than the fair market value of such use or enjoyment.

History: 1989, c. 77, s. 95.

Corresponding Federal Provision: 56(11).

Amount received out of or under arrangement.

890.11. A taxpayer shall also include in computing his income for a taxation year the aggregate of all amounts each of which is an amount received by him in the year in the course of a business out of or under a retirement compensation arrangement to which he, another person who carried on a business that was acquired by him, or any person with whom he or that other person does not deal at arm's length, has contributed an amount that was deductible under section 139.1 in computing the contributor's income for a taxation year.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176.

Corresponding Federal Provision: 12(1)(n.3).

CHAPTER IV DEDUCTIONS

Deductible contributions.

890.12. A taxpayer may deduct in computing his income for a taxation year amounts paid by him in the year as contributions under a retirement compensation arrangement in respect of services rendered by his employee or former employee, other than where it is established, by subsequent events or otherwise, that the amounts were paid as part of a

series of payments and refunds of contributions under the arrangement.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176.

Corresponding Federal Provision: 20(1)(r).

Other deductions.

890.13. A taxpayer may also deduct in computing his income for a taxation year,

(a) where an amount in respect of a particular retirement compensation arrangement is required by paragraph *a* or *c* of section 890.9 or by section 429 to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

i. the aggregate of all amounts in respect of the particular arrangement so required to be included in computing the taxpayer's income for the year, and

ii. the amount by which the aggregate of all amounts each of which is an amount deducted under this paragraph or paragraph *b* in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year or an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under this paragraph in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the particular arrangement, is exceeded by the aggregate of all amounts each of which is

(1) an amount, other than an amount deductible under section 70.2 or transferred to the particular arrangement in circumstances in which section 890.14 applies, contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(2) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under this paragraph in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement,

(3) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement, or

(4) an amount that was received or became receivable by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada as proceeds from the disposition of an interest in the particular arrangement; and

(b) where an amount in respect of a particular retirement compensation arrangement is required by paragraph *b* of section 890.9 to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

i. the aggregate of all amounts in respect of the particular arrangement so required to be included in the taxpayer's income for the year, and

ii. the amount by which the aggregate of all amounts each of which is an amount deducted under paragraph *a* in respect of the particular arrangement in computing the taxpayer's income for the year or a preceding taxation year, an amount deducted under this paragraph in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year or an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under paragraph *a* in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement, is exceeded by the aggregate of all amounts each of which is

(1) an amount, other than an amount deductible under section 70.2 or transferred to the particular arrangement in circumstances in which section 890.14 applies, contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(2) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under paragraph *a* in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement, and

(3) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement.

History: 1989, c. 77, s. 95; 1991, c. 25, s. 176; 1997, c. 14, s. 150; 2000, c. 5, s. 190.

Corresponding Federal Provision: 60(t) and (u).

CHAPTER V ARRANGEMENT TRANSFERS

Transfers.

890.14. Where an amount, other than an amount that is part of a series of periodic payments, is transferred directly to a retirement compensation arrangement, other than a plan or arrangement the custodian of which is not resident in Canada or which is deemed under section 890.6 to be a retirement

compensation arrangement, from another retirement compensation arrangement, the following rules apply:

(a) the amount shall not, solely because of the transfer, be included in computing a taxpayer's income; and

(b) no deduction may be made in respect of the amount in computing a taxpayer's income.

History: 2000, c. 5, s. 191.

Corresponding Federal Provision: 207.6(7)(a) and (b).

TITLE III REGISTERED EDUCATION SAVINGS PLANS

CHAPTER I INTERPRETATION AND REGISTRATION

Definitions:

890.15. In this Title,

“accumulated income payment”;

“accumulated income payment” under an education savings plan means any amount paid out of the plan, other than a payment described in any of paragraphs *a* and *c* to *e* of the definition of “trust”, to the extent that the amount so paid exceeds the fair market value of any consideration given to the plan for the payment of the amount;

“beneficiary”;

“beneficiary” under an education savings plan means a person, designated by a subscriber under the plan, to whom or on whose behalf an educational assistance payment under the plan is to be paid if the person qualifies under the plan;

“designated provincial program”;

“designated provincial program” means

(a) a program administered pursuant to an agreement entered into by the government of a province under section 12 of the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26); or

(b) a program established under the laws of a province, other than Québec, to encourage the financing of children's post-secondary education through savings in registered education savings plans;

“education savings plan”;

“education savings plan” means

(a) a contract described in section 893; or

(b) a contract entered into after 31 December 1997 between an individual, other than a trust, such an individual and the spouse of the individual or the public primary caregiver of a beneficiary, and a person, in this Title referred to as a “promoter”, under which the promoter agrees to pay or to cause to be paid educational assistance payments to or for one or more beneficiaries;

“educational assistance payment”;

“educational assistance payment” means any amount, other than a refund of contributions, paid out of an education

savings plan to or for an individual to assist the individual to further the individual's education at the post-secondary school level;

“public primary caregiver”;

“public primary caregiver” of a beneficiary under an education savings plan in respect of whom a special allowance is payable under the Children's Special Allowances Act (Statutes of Canada, 1992, chapter 48), means the department, body, agency or institution that maintains the beneficiary or the public curator or public trustee of the province in which the beneficiary resides;

“qualified investment”;

“qualified investment” for a trust governed by a registered education savings plan has the meaning assigned by subsection 1 of section 146.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

“refund of contributions”;

“refund of contributions” at any time under a registered education savings plan means

(a) an amount paid at that time as a refund of a contribution that had been made to the plan at a previous time by or on behalf of a subscriber under the plan, otherwise than by way of a transfer from another registered education savings plan; and

(b) an amount paid at that time as a refund of an amount that had been paid into the plan at a previous time by way of a transfer from another registered education savings plan, where the amount would have been a refund of contributions under the other plan if it had been paid at the previous time directly to a subscriber under the other plan;

“registered education savings plan”;

“registered education savings plan” means, subject to section 890.16, an education savings plan registered or deemed to be registered by the Minister for the purposes of this Part or a registered education savings plan as it is amended from time to time; in that respect, every education savings plan whose registration was effective on 1 January 1998, or that is accepted for registration after 31 December 1997, for the purposes of the Income Tax Act is, subject to the Minister's power to refuse or revoke a registration, deemed to be registered by the Minister for the purposes of this Part;

“specified plan”;

“specified plan” means an education savings plan

(a) that does not allow more than one beneficiary under the plan at any one time;

(b) under which the beneficiary is an individual in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the beneficiary's taxation year that ends in the thirty-first year following the year in which the plan was entered into; and

(c) that provides that, at all times after the end of the thirty-fifth year following the year in which the plan was

entered into, no other individual may be designated as a beneficiary under the plan;

“subscriber”;

“subscriber” under an education savings plan at any time means

(a) in the case of an education savings plan under a contract described in section 893, the individual referred to in that section with whom the promoter of the plan has entered into the contract; or

(b) in the case of another education savings plan and subject to section 890.17,

i. each individual or the public primary caregiver with whom the promoter of the plan has entered into the plan,

i.1. another individual or another public primary caregiver who has before that time, under a written agreement, acquired a public primary caregiver's rights as a subscriber under the plan,

ii. an individual who has before that time acquired a subscriber's rights under the plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a partition of property between the individual and a subscriber under the plan in settlement of rights arising out of, or on the breakdown of, their marriage, or

iii. after the death of an individual described in any of subparagraphs i to ii, any other person, including the succession of the subscriber, who acquires the individual's rights as a subscriber under the plan or who makes contributions to the plan in respect of a beneficiary under the plan;

“trust”.

“trust”, except in paragraphs *d* and *e* and paragraph *b* of the definition of “education savings plan”, means any person who irrevocably holds property under an education savings plan for any of, or any combination of, the following purposes:

(a) the payment of educational assistance payments;

(b) the payment after 31 December 1997 of accumulated income payments;

(c) the payment of a refund of contributions;

(c.1) the repayment of amounts, including the payment of amounts related to that repayment, under the Canada Education Savings Act or under a designated provincial program;

(c.2) the payment of tax under any of sections 1129.66.2, 1129.66.4 and 1129.66.5, including the payment of an amount related to that tax;

(d) the payment of an amount to, or to a trust in favour of, a prescribed educational institution; and

(e) the payment of an amount to another trust that irrevocably holds property under a registered education savings plan for one or more of the purposes set out in paragraphs *a* to *d*.

History: 2000, c. 5, s. 193; 2001, c. 53, s. 181; 2005, c. 38, s. 204; 2009, c. 5, s. 378; 2009, c. 15, s. 163; 2010, c. 5, s. 84; 2011, c. 6, s. 176; 2020, c. 16, s. 130.

Corresponding Federal Provision: 146.1(1).

Excluded contributions.

890.15.1. In this Title, a contribution to an education savings plan does not include

(a) an amount paid into the plan under or because of the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26) or a designated provincial program;

(b) an amount deemed under section 1029.8.128 to be an overpayment of the trust's tax payable; and

(c) an amount paid into the plan under or because of any other program that has a similar purpose to a designated provincial program and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by a public primary caregiver in its capacity as subscriber under the plan).

History: 2001, c. 53, s. 182; 2005, c. 38, s. 205; 2009, c. 5, s. 379; 2011, c. 6, s. 177.

Corresponding Federal Provision: 146.1(1) "contribution".

Reference.

890.15.2. For the purposes of this Title and paragraph *d.3* of section 336, a reference to the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26), to an amount paid under that Act, to the payment or repayment of an amount under that Act or to an obligation or condition set out in that Act is a reference to Part III.1 of the Department of Human Resources Development Act (Statutes of Canada, 1996, chapter 11), to an amount paid under that Part, to the payment or repayment of an amount under that Part or to an obligation or condition set out in that Part, as it read at the time the reference is relevant.

History: 2005, c. 38, s. 206.

Corresponding Federal Provision: 146.1(14)(a).

Revoked plan.

890.16. For the purposes of this Title, except sections 904 and 904.1, a registered education savings plan ceases to qualify as such from the day following the day on which its registration is revoked or deemed revoked under section 899.

History: 2000, c. 5, s. 193.

Corresponding Federal Provision: 146.1(1) "registered education savings plan" (part).

Interpretation.

890.16.1. For the purposes of this Title and Chapter III of Title XXXV of the Regulation respecting the Taxation Act (chapter I-3, r. 1), "education at the post-secondary school level" or "program at a post-secondary school level" includes a program of studies of an educational institution described in subparagraph 2 of subparagraph i of paragraph *a* of section 752.0.18.10 that furnishes a person with skills for, or improves a person's skills in, an occupation.

History: 2005, c. 38, s. 207; 2009, c. 15, s. 164; 2010, c. 5, s. 85; 2015, c. 21, s. 332.

Corresponding Federal Provision: 146.1(1) "post-secondary school level".

Restriction.

890.17. For the purposes of paragraph *b* of the definition of "subscriber" in section 890.15, a subscriber under an education savings plan at any time does not include an individual or a public primary caregiver whose rights as a subscriber under the plan had, before that time, been acquired by an individual or public primary caregiver in the circumstances described in subparagraph i.1 or ii of that paragraph *b*.

History: 2000, c. 5, s. 193; 2005, c. 38, s. 208.

Corresponding Federal Provision: 146.1(1) "subscriber" in fine.