

891. *(Repealed).*

History: 1975, c. 21, s. 19; 2000, c. 5, s. 194.

892. *(Repealed).*

History: 1975, c. 21, s. 19; 2000, c. 5, s. 194.

Contract entered into before 1 January 1998.

893. The contract to which paragraph *a* of the definition of "education savings plan" in section 890.15 refers is a contract entered into before 1 January 1998 between an individual and a promoter, under which, as consideration for the payment of an amount by the individual, the promoter agrees to pay or to cause to be paid educational assistance payments to or for a beneficiary.

History: 1975, c. 21, s. 19; 2000, c. 5, s. 195.

Corresponding Federal Provision: 146.1(1).

894. *(Repealed).*

History: 1975, c. 21, s. 19; 1980, c. 13, s. 73; 1993, c. 16, s. 305; 1997, c. 3, s. 41; 2000, c. 5, s. 196.

Effect of election in respect of an accumulated income payment.

894.1. If a valid election is made under subsection 1.1 of section 146.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an accumulated income payment under the registered education savings plan may be made to the registered disability savings plan, despite paragraph *c.1* of section 895 and any terms of the plan required by that paragraph.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1.1 of section 146.1 of the Income Tax Act.

History: 2015, c. 21, s. 333.

Corresponding Federal Provision: 146.1(1.2).

Conditions for registration.

895. The Minister shall not register for the purposes of this Part any education savings plan of a promoter unless the promoter applies therefor to the Minister in prescribed form containing prescribed information and, in the Minister's opinion, the following conditions are complied with:

(*a*) at the time of the application for registration of the plan by the promoter, not fewer than 150 plans have been entered into with the promoter, each of which complied, at the time it was entered into, with the conditions set out in section 894 and the other conditions set out in this section, as those sections read at that time;

(*a.1*) the plan provides that the property of any trust governed by the plan, after the payment of trustee and

administration charges, is irrevocably held for any of the purposes described in the definition of "trust" in section 890.15 by a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering its services as a trustee;

(*b*) the promoter and each trust governed by the plan are resident in Canada;

(*c*) the plan does not allow for any payment before 1 January 1998 to a subscriber, other than the payment of a refund of contributions, unless the subscriber is also the beneficiary under the plan;

(*c.1*) subject to section 895.0.1, if the plan allows accumulated income payments, the plan provides that an accumulated income payment is permitted to be made only if

i. the payment is made to, or on behalf of, a subscriber under the plan who is resident in Canada when the payment is made,

ii. the payment is not made jointly to, or on behalf of, more than one subscriber, and

iii. any of the following situations apply:

(1) the payment is made after the ninth year that follows the year in which the plan was entered into and each individual, other than a deceased individual, who is or was a beneficiary under the plan has attained 21 years of age before the payment is made and is not, when the payment is made, eligible under the plan to receive an educational assistance payment,

(2) the payment is made in the year in which the plan must be terminated in accordance with paragraph *h*, or

(3) each individual who was a beneficiary under the plan is deceased when the payment is made;

(*d*) the plan is substantially similar to the plan described in or annexed to the prospectus filed by the promoter with the Autorité des marchés financiers, a securities commission or a similar body in Canada;

(*e*) in the event that a trust governed by the plan is terminated, the property held by the trust is to be used for any of the purposes described in the definition of "trust" in section 890.15;

(*f*) the plan provides for the payment of educational assistance payments before 1 January 1997 to an individual only if the individual is, at the time the payment is made, in full-time attendance at a prescribed post-secondary educational institution, enrolled in a prescribed educational program at the institution;

(f.1) the plan provides for the payment of educational assistance payments at any time after 31 December 1996 to or on behalf of an individual only if

i. *(subparagraph repealed)*,

ii. the individual is at that time

(1) enrolled as a student in a prescribed educational program at a prescribed post-secondary educational institution, or

(2) 16 years of age or over and enrolled as a student in a prescribed training program at a prescribed postsecondary educational institution, and

iii. any of the following situations apply:

(1) the individual satisfies, at that time, the condition set out in subparagraph 1 of subparagraph ii and has satisfied that condition throughout at least 13 consecutive weeks in the 12-month period that ends at that time, or the total of the payment and all other educational assistance payments made under a registered education savings plan of the promoter to or on behalf of the individual in the 12-month period that ends at that time does not exceed \$5,000 or such greater amount as the Minister responsible for the administration of the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26) approves in writing in respect of the individual, or

(2) the individual satisfies, at that time, the condition set out in subparagraph 2 of subparagraph ii and the total of the payment and all other educational assistance payments made under a registered education savings plan of the promoter to or on behalf of the individual in the 13-week period that ends at that time does not exceed \$2,500 or such greater amount as the Minister responsible for the administration of the Canada Education Savings Act approves in writing in respect of the individual;

(f.2) the plan provides that no contribution to the plan may be made otherwise than by or on behalf of a subscriber under the plan in respect of a beneficiary under the plan or by way of transfer from another plan that is a registered education savings plan;

(f.3) the plan provides

i. that an individual is permitted to be designated as a beneficiary under the plan only if

(1) the individual's Social Insurance Number is provided to the promoter before the designation is made, and

(2) the individual is resident in Canada when the designation is made, or the designation is made in conjunction with a transfer of property into the plan from another registered education savings plan under which the individual was a beneficiary immediately before the transfer, and

ii. that a contribution to the plan in respect of an individual who is a beneficiary under the plan is permitted to be made only if

(1) the individual's Social Insurance Number is provided to the promoter before the contribution is made and the individual is resident in Canada when the contribution is made, or

(2) the contribution is made by means of a transfer from another registered education savings plan under which the individual was a beneficiary immediately before the transfer;

(g) the plan provides that no contribution, other than a contribution made by way of transfer from another registered education savings plan, may be made into the plan

i. in the case of a specified plan, after the thirty-fifth year following the year in which the plan is entered into, and

ii. in any other case, after the thirty-first year following the year in which the plan is entered into;

(h) the plan provides that it must be terminated on or before the last day of

i. in the case of a specified plan, the fortieth year following the year in which the plan is entered into, and

ii. in any other case, the thirty-fifth year following the year in which the plan is entered into;

(h.1) where the plan allows accumulated income payments, the plan provides that it must be terminated before 1 March of the year following the year in which the first such payment is made under the plan;

(h.2) the plan does not allow for the receipt of property by way of direct transfer from another plan that is a registered education savings plan after the other plan has made any accumulated income payment;

(i) where the plan allows more than one beneficiary under the plan at any one time, the plan provides

i. that each of the beneficiaries under the plan is required to be connected to each living subscriber under the plan, or to have been connected to a deceased original subscriber under the plan, by blood relationship or adoption, and

ii. that a contribution to the plan in respect of a beneficiary is permitted to be made only if

(1) the beneficiary had not attained 31 years of age before the time of the contribution,

(2) the contribution is made by way of transfer from another plan that is a registered education savings plan that allows more than one beneficiary at any one time, and

(3) (*subparagraph repealed*),

iii. an individual is permitted to become a beneficiary under the plan at any particular time only if

(1) the individual had not attained 21 years of age before the particular time, or

(2) the individual was, immediately before the particular time, a beneficiary under another registered education savings plan that allows more than one beneficiary at any one time;

(j) (*paragraph repealed*);

(k) the plan provides that the promoter shall, within 90 days after an individual becomes a beneficiary under the plan, notify in writing the individual or, if the individual is under 19 years of age at that time and either ordinarily resides with a parent of the individual or is maintained by a public primary caregiver of the individual, that parent or public primary caregiver, of the existence of the plan and the name and address of the subscriber in respect of the plan;

(l) the Minister has no reason to believe that the promoter will not take all reasonable measures to ensure that the plan will continue to comply with the conditions for registration set out in paragraphs *a.1*, *b* to *c.1* and *e* to *k* for the purposes of this Part; and

(m) the Minister has no reasonable basis to believe that the plan will become revocable.

History: 1975, c. 21, s. 19; 1993, c. 16, s. 306; 1998, c. 16, s. 211; 2000, c. 5, s. 197; 2001, c. 53, s. 183; 2002, c. 45, s. 518 [amended by 2003, c. 9, s. 463]; O.C. 45-2004; 2003, c. 9, s. 463; 2004, c. 37, s. 90; 2005, c. 38, s. 209; 2006, c. 36, s. 89; 2009, c. 5, s. 380; 2009, c. 15, s. 165; 2010, c. 5, s. 86; 2011, c. 1, s. 47; 2015, c. 21, s. 334.

Corresponding Federal Provision: 146.1(2)(a) to (n).

Waiver.

895.0.1. The Minister may, on written application of the promoter of a registered education savings plan, waive the application of the conditions set out in subparagraph 1 of subparagraph iii of paragraph *c.1* of section 895 in respect of the plan if a beneficiary under the plan suffers from a severe and prolonged impairment in mental functions that prevents, or can reasonably be expected to prevent, the beneficiary from enrolling in a prescribed educational program at a prescribed post-secondary educational institution.

History: 2001, c. 53, s. 184; 2005, c. 38, s. 210; 2006, c. 36, s. 90; 2010, c. 5, s. 87.

Corresponding Federal Provision: 146.1(2.2).

Extension of payment period.

895.0.1.1. Despite paragraph *f.1* of section 895, an education savings plan may provide for the payment of an

educational assistance payment to or for an individual at any time in the six-month period after the particular time at which the individual ceases to be enrolled as a student in a prescribed educational program or a prescribed training program, if the payment would have complied with that paragraph *f.1* had the payment been made immediately before the particular time.

History: 2009, c. 15, s. 166; 2011, c. 1, s. 48.

Corresponding Federal Provision: 146.1(2.1).

Time of payment.

895.0.1.2. An educational assistance payment that is made at any time in accordance with section 895.0.1.1 but not in accordance with paragraph *f.1* of section 895 is deemed, for the purposes of that paragraph at and after that time, to have been made immediately before the particular time referred to in section 895.0.1.1.

History: 2009, c. 15, s. 166.

Corresponding Federal Provision: 146.1(2.22).

Reference.

895.0.2. For the purposes of subparagraph 1 of subparagraph iii of paragraph *f.1* of section 895, a reference to an amount that the Minister responsible for the administration of the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26) approves in writing in respect of an individual is a reference to an amount that the Minister of Human Resources Development or the Minister of State to be styled Minister of Human Resources and Skills Development has approved in writing in respect of the individual before the day on which a Minister is designated as responsible for the administration of that Act.

History: 2005, c. 38, s. 211; 2009, c. 5, s. 381.

Corresponding Federal Provision: 146.1(14)(b).

Exemption.

895.0.3. Despite paragraph *f.3* of section 895, an education savings plan may provide that an individual's Social Insurance Number need not be provided in respect of

(a) a contribution made to the plan, if the contract constituting the plan was entered into before 1 January 1999; and

(b) a designation, as a beneficiary under the plan, of an individual who is not resident in Canada, if the individual was not assigned a Social Insurance Number before the designation is made.

History: 2009, c. 15, s. 167.

Corresponding Federal Provision: 146.1(2.3).

Transfers between plans.

895.1. Where property irrevocably held by a trust governed by a registered education savings plan, in this section referred to as the "transferor plan", is transferred to a

trust governed by another registered education savings plan, in this section referred to as the “transferee plan”, the following rules apply:

(a) for the purposes of this section, the definition of “specified plan” in section 890.15 and paragraphs *c.1*, *g* and *h* of section 895, the transferee plan is deemed to have been entered into on the day on which the transferee plan was entered into or, if it is earlier, on the day on which the transferor plan was entered into; and

(b) notwithstanding sections 904 and 904.1, no amount shall be included in computing the income of any person because of the transfer.

History: 1993, c. 16, s. 307; 2000, c. 5, s. 198; 2005, c. 38, s. 212.

Corresponding Federal Provision: 146.1(6.1).

Deemed registration.

896. Where an education savings plan cannot be registered solely because the condition set out in paragraph *a* of section 895 has not been complied with, if the plan is subsequently registered, it is deemed to have been registered on 1 January of the year in which all other conditions referred to in that section were complied with or on 1 January of the year preceding the year in which the plan is subsequently registered, whichever date is the later.

History: 1975, c. 21, s. 19; 2000, c. 5, s. 198.

Corresponding Federal Provision: 146.1(3).

Registration of plans without prospectus.

897. Notwithstanding paragraph *d* of section 895, the Minister may register an education savings plan even though the promoter has not filed the prospectus contemplated therein in respect of the plan, if the promoter is not otherwise required by the laws of Canada or a province to file such a prospectus with the Autorité des marchés financiers, a securities commission or a body performing a similar function in Canada and the plan complies with the other conditions set out in that section 895.

History: 1975, c. 21, s. 19; 1993, c. 16, s. 308; 2000, c. 5, s. 199; 2002, c. 45, s. 519; O.C. 45-2004; 2004, c. 37, s. 90.

Corresponding Federal Provision: 146.1(4).

Deemed date of registration.

898. Subject to section 896, an education savings plan shall be deemed to have been registered on 1 January:

(a) of the year 1972 or of the year in which it was created, whichever date is the later, if it was registered before 1976; or

(b) of the year in which it was registered, if it was registered after 1975.

History: 1975, c. 21, s. 19.

Corresponding Federal Provision: 146.1(12).

CHAPTER II REVOCATION OF REGISTRATION

Notice of intent to revoke registration.

898.1. If, on a particular day, a registered education savings plan is revocable or ceases to comply with any provision of the plan or with the registering conditions set out in section 895 or a person fails to comply with a condition or obligation imposed under Division II.21 of Chapter III.1 of Title III of Book IX, the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26) or a program administered in accordance with an agreement entered into under section 12 of that Act, that applies in respect of a registered education savings plan, the Minister may send written notice to the promoter of the plan that the Minister proposes to revoke the registration of the plan as of the date specified in the notice, which date must not be earlier than the particular day.

History: 2000, c. 5, s. 200; 2001, c. 53, s. 185; 2005, c. 38, s. 213; 2009, c. 5, s. 382.

Corresponding Federal Provision: 146.1(12.1).

Revocability.

898.1.1. For the purposes of paragraph *m* of section 895 and section 898.1, a registered education savings plan is revocable at any time after 27 October 1998 at which

(a) *(paragraph repealed)*;

(b) *(paragraph repealed)*;

(c) a trust governed by the plan begins carrying on a business; or

(d) a trustee that holds property in connection with the plan borrows money for the purposes of the plan, except where

i. the money is borrowed for a term not exceeding 90 days,

ii. the money is not borrowed as part of a series of loans or other transactions and repayments, and

iii. none of the property of the trust is used as security for the borrowed money.

History: 2001, c. 53, s. 186; 2020, c. 16, s. 131.

Corresponding Federal Provision: 146.1(2.1).

Notice of revocation.

898.2. Where, in accordance with section 898.1, the Minister sends a notice, in this section referred to as a “notice of intent”, to the promoter of a registered education savings plan that the Minister proposes to revoke the registration of the plan, the Minister may, after 30 days after the receipt by the promoter of the notice of intent, send written notice to the promoter that the registration of the plan is revoked as of the

day specified in the notice of revocation, which day shall not be earlier than the day specified in the notice of intent.

History: 2000, c. 5, s. 200.

Corresponding Federal Provision: 146.1(12.2).

Revocation of registration.

899. Where, in accordance with section 898.2, the Minister sends a notice of revocation of the registration of a registered education savings plan to the promoter of the plan, the registration of the plan is revoked as of the day specified in the notice of revocation, unless the Court of Québec or a judge thereof, on application made at any time before the determination of a contestation under subparagraph *e* of the first paragraph of section 93.1.15 of the Tax Administration Act (chapter A-6.002), decides otherwise.

Revocation of registration.

Subject to the first paragraph, the registration of a registered education savings plan that is deemed to have been registered by the Minister for the purposes of this Part, in accordance with the definition of "registered education savings plan" in section 890.15, is deemed, for the purposes of this Part, to be revoked as of the day on which, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the registration of the plan is revoked under subsection 13 of section 146.1 of that Act.

History: 1975, c. 21, s. 19; 1975, c. 83, s. 84; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2000, c. 5, s. 201; 2010, c. 31, s. 175; 2020, c. 12, s. 125.

Corresponding Federal Provision: 146.1(13).

900. *(Repealed).*

History: 1975, c. 21, s. 19; 2000, c. 5, s. 202.

CHAPTER III TAX

No tax while trust governed by plan.

901. No tax is payable under this Part by a trust on its taxable income for a taxation year, or by a subscriber on the income of the trust for a taxation year after 1971 if, throughout the period of the year in which it is in existence, the trust is governed by a registered education savings plan.

History: 1975, c. 21, s. 19.

Corresponding Federal Provision: 146.1(5) and (6).

Exception.

901.1. Where a trust governed by a registered education savings plan holds, in a taxation year, a property that is not a qualified investment for the trust, the trust shall, despite section 901, pay tax under this Part on the amount that would be its taxable income for the year if the trust had no income or losses from sources other than properties that are not such qualified investments for the trust, and no capital gains or

capital losses other than from the disposition of such properties.

History: 2020, c. 16, s. 132.

Section 901.1 — rules applicable.

901.2. For the purposes of section 901.1, the following rules apply:

(a) a trust's income includes dividends described in sections 501 to 503;

(b) the first paragraph of section 231 must be construed as if the taxable capital gain or allowable capital loss were the total capital gain or the total capital loss, as the case may be, from the disposition of a property; and

(c) the trust's income is computed without reference to paragraph *a* of section 657 and section 657.1.

History: 2020, c. 16, s. 132.

902. *(Repealed).*

History: 1975, c. 21, s. 19; 2017, c. 1, s. 254.

CHAPTER IV INCOME INCLUSIONS

903. *(Repealed).*

History: 1975, c. 21, s. 19; 2000, c. 5, s. 204.

Educational assistance payments.

904. An individual shall include in computing the individual's income for a taxation year any educational assistance payment paid out of a registered education savings plan to or for the individual in the year that exceeds the total of all excluded amounts in relation to a plan and the individual for the year.

History: 1975, c. 21, s. 19; 1980, c. 13, s. 74; 2000, c. 5, s. 205; 2020, c. 16, s. 133.

Corresponding Federal Provision: 146.1(7).

Other income inclusions.

904.1. A taxpayer shall include in computing the taxpayer's income for a taxation year the aggregate of

(a) any accumulated income payment (other than an accumulated income payment made under section 894.1) received in the year by the taxpayer under a registered education savings plan that exceeds the total of all excluded amounts in relation to a plan and the individual for the year; and

(b) any amount received in the year by the taxpayer in full or partial satisfaction of a subscriber's interest under a registered education savings plan, other than any excluded amount in relation to the plan.

Excluded amount.

For the purposes of section 904 and subparagraph *a* of the first paragraph, an excluded amount in relation to a registered education savings plan is an amount in respect of which a subscriber pays a tax under section 207.05 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in relation to the plan, or another plan for which the plan was substituted by the subscriber, that

- (a) has not been waived, cancelled or refunded; and
- (b) has not reduced any other amount that would otherwise be included in computing an individual's income for the year or a preceding year under the first paragraph or section 904.

Excluded amount.

For the purposes of subparagraph *b* of the first paragraph, an excluded amount in relation to a registered education savings plan is

- (a) any amount received under the plan;
- (b) any amount received in satisfaction of a right to a refund of contributions under the plan; or
- (c) any amount received by a taxpayer under a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a partition of property between the taxpayer and the taxpayer's spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage.

History: 2000, c. 5, s. 206; 2015, c. 21, s. 335; 2020, c. 16, s. 134.

Corresponding Federal Provision: 146.1(7.1) and (7.2).

905. (Repealed).

History: 1975, c. 21, s. 19; 1997, c. 14, s. 151; 2000, c. 5, s. 207.

CHAPTER V ADMINISTRATION

Obligation to file amendment.

905.0.1. Where a registered education savings plan is amended, the promoter of the plan shall file the text of the amendment with the Minister not later than 60 days after the day on which the plan is amended.

History: 2000, c. 5, s. 208.

Corresponding Federal Provision: 146.1(4.1).

Regulations.

905.0.2. The Government may make regulations requiring promoters of education savings plans to file information returns in relation to the plans.

History: 2000, c. 5, s. 208.

Corresponding Federal Provision: 146.1(15).

TITLE III.1**REGISTERED DISABILITY SAVINGS PLAN****CHAPTER I****INTERPRETATION AND REGISTRATION****Definitions:**

905.0.3. In this Title,

“assistance holdback amount”;

“assistance holdback amount”, in relation to a disability savings plan, has the meaning assigned by the Canada Disability Savings Regulations made under the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35);

“business number”;

“business number” means the Québec business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1) or the business number within the meaning of subsection 1 of section 248 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

“designated provincial program”;

“designated provincial program” means a program that is established under the laws of a province and that supports savings in registered disability savings plans;

“disability assistance payment”;

“disability assistance payment”, in relation to a disability savings plan of a beneficiary, means any payment made from the plan to the beneficiary under the plan or to the beneficiary's succession;

“disability savings plan”;

“disability savings plan” of a beneficiary means an arrangement

(a) between an issuer and one or more of the following:

- i. the beneficiary,
- ii. a person who, at the time the arrangement is entered into, is a qualifying person described in paragraph *a* or *b* of the definition of “qualifying person” in relation to the beneficiary,
 - ii.1. if the arrangement is entered into before 1 January 2024, a qualifying family member in relation to the beneficiary who, at the time the arrangement is entered into, is a qualifying person in relation to the beneficiary,
 - ii.2. a qualifying family member in relation to the beneficiary who, at the time the arrangement is entered into, is not a qualifying person in relation to the beneficiary but is a holder of another arrangement that is a registered disability savings plan of the beneficiary, and
- iii. the father or mother of the beneficiary who, at the time the arrangement is entered into, is not a qualifying person in relation to the beneficiary but is a holder of another

arrangement that is a registered disability savings plan of the beneficiary;

(b) under which one or more contributions are to be made in trust to the issuer to be invested, used or otherwise applied by the issuer for the purpose of making payments from the arrangement to the beneficiary; and

(c) that is entered into in a taxation year in respect of which the beneficiary is an individual eligible for the tax credit for severe and prolonged impairment in mental or physical functions;

“excluded year”;

“excluded year” means a calendar year prior to the calendar year in which the certification mentioned in the definition of “specified year” is provided to the issuer of the plan;

“holder”;

“holder” of a disability savings plan at any time means

(a) a person who has, at that time, rights as a person with which the issuer entered into the plan;

(b) a person who has, at that time, rights as a successor or assignee of a person described in paragraph *a* or in this paragraph; or

(c) the beneficiary under the plan if, at that time, the beneficiary is not a person described in paragraph *a* or *b* and has rights under the plan to make decisions, either alone or with other holders of the plan, concerning the plan, unless the only such right is a right to direct that disability assistance payments be made as provided for in subparagraph iii of subparagraph *n* of the first paragraph of section 905.0.6;

“individual eligible for the tax credit for severe and prolonged impairment in mental or physical functions”;

“individual eligible for the tax credit for severe and prolonged impairment in mental or physical functions”, in respect of a taxation year, means an individual in respect of whom an amount is deductible under section 118.3 of the Income Tax Act in computing the individual’s tax payable under Part I of that Act for the year or that would be deductible if that section were read without reference to paragraph *c* of its subsection 1;

“issuer”;

“issuer”, in relation to a disability savings plan, means a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer in Canada its services as trustee, and with which the Minister responsible for the administration of the Canada Disability Savings Act has entered into an agreement that applies to the plan for the purposes of that Act;

“lifetime disability assistance payments”;

“lifetime disability assistance payments” under a disability savings plan of a beneficiary means disability assistance payments that are identified under the terms of the plan as lifetime disability assistance payments and that, after they begin to be paid, are payable at least annually until the earlier of the day on which the beneficiary dies and the day on which the plan ceases to exist;

“plan trust”;

“plan trust”, in relation to a disability savings plan, means the trust governed by the plan;

“qualifying family member”;

“qualifying family member”, in relation to a beneficiary of a disability savings plan, at any time, means an individual who, at that time, is

(a) the father or mother of the beneficiary; or

(b) the spouse of the beneficiary who is not living separate and apart from the beneficiary by reason of a breakdown of their marriage;

“qualifying person”;

“qualifying person”, in relation to a beneficiary of a disability savings plan, at any time, means

(a) if the beneficiary has not, at or before that time, reached 18 years of age, a person who is, at that time,

i. the father or mother of the beneficiary,

ii. a tutor, curator or other individual who is legally authorized to act on behalf of the beneficiary, or

iii. a public department, agency or institution that is legally authorized to act on behalf of the beneficiary;

(b) if the beneficiary has, at or before that time, reached 18 years of age and is not, at that time, contractually competent to enter into a disability savings plan, a person who is, at that time, described in subparagraph ii or iii of paragraph *a*; and

(c) other than for the purposes of subparagraph iv of subparagraph *b* of the first paragraph of section 905.0.6, an individual who is a qualifying family member in relation to the beneficiary if

i. at or before that time, the beneficiary has reached 18 years of age and is not a beneficiary under a disability savings plan,

ii. at that time, none of the persons described in subparagraphs ii and iii of paragraph *a* is legally authorized to act on behalf of the beneficiary, and

iii. in the issuer’s opinion after reasonable inquiry, the beneficiary’s contractual competence to enter into a disability savings plan at that time is in doubt;

“registered disability savings plan”;

“registered disability savings plan” means a disability savings plan that satisfies the conditions set out in section 905.0.5, but does not include a disability savings plan in respect of which any of sections 905.0.7, 905.0.8 and 905.0.20 applies;

“specified maximum amount”;

“specified maximum amount”, for a calendar year in respect of a disability savings plan, means the amount that is the greater of

- (a) the amount determined by the formula in subparagraph *l* of the first paragraph of section 905.0.6 in respect of the plan for the calendar year; and
- (b) the amount determined by the formula

A + B;

“specified year”.

“specified year” for a disability savings plan of a beneficiary means a calendar year, other than an excluded year, that is either the particular calendar year in which a physician or specialized nurse practitioner licensed to practise under the laws of a province (or of the jurisdiction where the beneficiary resides) certifies in writing that the beneficiary’s state of health is such that, in the professional opinion of the physician or specialized nurse practitioner, the beneficiary is not likely to survive more than five years, or

- (a) if the plan is a specified disability savings plan, a year subsequent to the particular calendar year; or
- (b) in any other case, any of the five calendar years following the particular calendar year.

Specified maximum amount — formula elements.

In the formula in paragraph *b* of the definition of “specified maximum amount” in the first paragraph,

(a) A is 10% of the fair market value of the property held by the plan trust at the beginning of the calendar year (other than annuity contracts that, at the beginning of the calendar year, are not described in paragraph *b* of the definition of “qualified investment” in subsection 1 of section 146.4 of the Income Tax Act); and

(b) B is the aggregate of all amounts each of which is

i. a periodic payment under an annuity contract held by the plan trust at the beginning of the calendar year (other than an annuity contract described at the beginning of the calendar year in paragraph *b* of the definition of “qualified investment” in subsection 1 of section 146.4 of the Income Tax Act) that is paid to the plan trust in the calendar year, or

ii. if the periodic payment under an annuity contract described in subparagraph *i* is not made to the plan trust because the plan trust disposed of the right to that payment in the calendar year, an amount that is a reasonable estimate of that payment on the assumption that the annuity contract had been held by the plan trust throughout the calendar year and

no rights under the contract were disposed of in the calendar year.

History: 2009, c. 15, s.168; 2010, c. 7, s. 212 [in force: O.C. 928-2010]; 2011, c. 6, s.178; 2012, c. 8, s.143; 2013, c. 10, s. 71; 2015, c. 21, s. 336; 2017, c. 1, s. 255; 2019, c. 14, s. 279; 2020, c. 16, s. 135.

Corresponding Federal Provision: 146.4(1) and 48(1).

Beneficiary replacing holder.

905.0.3.1. Any holder of a disability savings plan who was a qualifying person in relation to the beneficiary under the plan at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of the application of paragraph *c* of the definition of “qualifying person” in the first paragraph of section 905.0.3 ceases to be a holder of the plan and the beneficiary becomes the holder of the plan if

(a) the beneficiary is determined to be contractually competent by a competent tribunal or other authority under the laws of a province or, in the issuer’s opinion after reasonable inquiry, the beneficiary’s contractual competence to enter into a disability savings plan is no longer in doubt; and

(b) the beneficiary notifies the issuer that the beneficiary chooses to become the holder of the plan.

History: 2013, c. 10, s. 72; 2015, c. 21, s. 337.

Corresponding Federal Provision: 146.4(1.5).

Other person replacing holder.

905.0.3.2. If a particular person described in subparagraph *ii* or *iii* of paragraph *a* of the definition of “qualifying person” in the first paragraph of section 905.0.3 is appointed in respect of a beneficiary of a disability savings plan and a holder of the plan was a qualifying person in relation to the beneficiary at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of the application of paragraph *c* of that definition, the following rules apply:

(a) the particular person shall notify the issuer without delay of the person’s appointment;

(b) the holder of the plan ceases to be a holder of the plan; and

(c) the particular person becomes the holder of the plan.

History: 2013, c. 10, s. 72; 2015, c. 21, s. 338.

Corresponding Federal Provision: 146.4(1.6).

Rules applicable in case of dispute.

905.0.3.3. If a dispute arises as a result of a disability savings plan issuer’s acceptance of a qualifying family member who was a qualifying person in relation to the beneficiary at the time the plan (or another registered

disability savings plan of the beneficiary) was entered into solely because of the application of paragraph *c* of the definition of “qualifying person” in the first paragraph of section 905.0.3 as a holder of the plan, from the time the dispute arises until the time that the dispute is resolved or a person becomes the holder of the plan under section 905.0.3.1 or 905.0.3.2, the holder of the plan shall make every effort to avoid any reduction in the fair market value of the property held by the plan trust, having regard to the reasonable needs of the beneficiary under the plan.

History: 2013, c. 10, s. 72; 2015, c. 21, s. 339.

Corresponding Federal Provision: 146.4(1.7).

No judicial recourse.

905.0.3.4. If, after reasonable inquiry, an issuer of a disability savings plan is of the opinion that an individual’s contractual competence to enter into a disability savings plan is in doubt, no judicial recourse may be exercised against the issuer for entering into a disability savings plan, under which the individual is the beneficiary, with a qualifying family member who was a qualifying person in relation to the beneficiary at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of the application of paragraph *c* of the definition of “qualifying person” in the first paragraph of section 905.0.3.

History: 2013, c. 10, s. 72; 2015, c. 21, s. 340.

Corresponding Federal Provision: 146.4(14).

Excluded contributions.

905.0.4. For the purposes of this Title, a contribution to a disability savings plan does not include, other than for the purposes of paragraph *b* of the definition of “disability savings plan” in the first paragraph of section 905.0.3,

(a) an amount paid into the plan under or because of the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35) or a designated provincial program;

(b) 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 an entity described in subparagraph iii of paragraph *a* of the definition of “qualifying person” in the first paragraph of section 905.0.3 in its capacity as holder of the plan;

(c) an amount transferred to the plan in accordance with section 905.0.16; or

(d) other than for the purposes of subparagraphs *f* to *h* and *n* of the first paragraph of section 905.0.6,

i. an amount that is a specified RDSP payment as defined in subsection 1 of section 60.02 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and

ii. an amount that is an accumulated income payment made to the plan under section 894.1.

History: 2009, c. 15, s. 168; 2011, c. 6, s. 179; 2012, c. 8, s. 144; 2015, c. 21, s. 341.

Corresponding Federal Provision: 146.4(1) “contribution”.

Specified disability savings plan.

905.0.4.1. If, in respect of a beneficiary under a registered disability savings plan, a physician or specialized nurse practitioner licensed to practise under the laws of a province (or of the jurisdiction where the beneficiary resides) certifies in writing that the beneficiary’s state of health is such that, in the professional opinion of the physician or specialized nurse practitioner, the beneficiary is not likely to survive more than five years, the holder of the plan elects in prescribed form and provides the election and the certification of the physician or of the specialized nurse practitioner, as the case may be, in respect of the beneficiary under the plan to the issuer of the plan, and the issuer notifies the Minister of the election in a manner and format acceptable to the Minister, the plan becomes a specified disability savings plan at the time the notification is received by the Minister.

Application.

Unless the Minister decides otherwise, the conditions of the first paragraph are deemed to be met in relation to a registered disability savings plan when the conditions of subsection 1.1 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) are met in relation to that plan and the Minister is deemed to have received the notification referred to in the first paragraph at the time the Minister responsible for the administration of the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35) receives the notification referred to in that subsection 1.1 in relation to that plan.

History: 2012, c. 8, s. 145; 2019, c. 14, s. 280.

Corresponding Federal Provision: 146.4(1.1).

Plan ceasing to be a specified disability savings plan.

905.0.4.2. A plan ceases to be a specified disability savings plan at the earliest of the following times:

(a) the time that the Minister receives a notification, in a manner and format acceptable to the Minister, from the issuer that the holder of the plan elects that the plan is to cease to be a specified disability savings plan;

(b) the time that is immediately before the earliest time in a calendar year when the total disability assistance payments, other than non-taxable portions, made under the plan in the year and while it was a specified disability savings plan exceeds \$10,000 or such greater amount as is required to satisfy the condition of subparagraph i of subparagraph *d*;

- (c) the time that is immediately before the time that
- i. a contribution is made to the plan,
 - ii. an amount described in paragraph *a* or *b* of section 905.0.4 or subparagraph ii of paragraph *d* of that section is paid into the plan,
 - iii. the plan is terminated,
 - iv. the plan ceases to be a registered disability savings plan as a result of the application of subparagraph *a* of the first paragraph of section 905.0.20, or
 - v. is the beginning of the first calendar year throughout which the beneficiary under the plan has no severe and prolonged impairment in mental or physical functions the effects of which are described in paragraph *a.1* of subsection 1 of section 118.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and
- (d) the time immediately following the end of a calendar year if
- i. the total amount of disability assistance payments made from the plan in the year is less than the amount determined by the formula in subparagraph 1 of the first paragraph of section 905.0.6 in respect of the plan for the same year or such a lesser amount as is supported by the property of the plan trust, and
 - ii. the year is not the year in which the plan became a specified disability savings plan;
- (e) *(subparagraph repealed)*;
- (f) *(subparagraph repealed)*.

Application.

Unless the Minister decides otherwise, the Minister is deemed to have received the notification referred to in subparagraph *a* of the first paragraph, in relation to a disability savings plan, at the time the Minister responsible for the administration of the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35) receives the notification referred to in paragraph *a* of subsection 1.2 of section 146.4 of the Income Tax Act in relation to that plan.

History: 2012, c. 8, s. 145; 2015, c. 21, s. 342.

Corresponding Federal Provision: 146.4(1.2).

Waiting period.

905.0.4.3. If at a particular time, a plan has ceased to be a specified disability savings plan because of section 905.0.4.2, the holder of the plan may not make an election under section 905.0.4.1 until 24 months after that time.

History: 2012, c. 8, s. 145.

Corresponding Federal Provision: 146.4(1.3).

Waiver.

905.0.4.4. The Minister may waive the application of section 905.0.4.2 or 905.0.4.3 if the Minister deems it is just and equitable to do so.

History: 2012, c. 8, s. 145.

Corresponding Federal Provision: 146.4(1.4).

Conditions for registration.

905.0.5. The conditions that must be satisfied for a disability savings plan of a beneficiary to be a registered disability savings plan are as follows:

(a) before the plan is entered into and following a written application to the Minister, the issuer of the plan has received written notification from the Minister that, in the Minister's opinion, a plan whose terms are identical to the plan would, if entered into by a person eligible to enter into a disability savings plan, comply with the conditions set out in section 905.0.6;

(b) at or before the time the plan is entered into, the issuer of the plan has been provided with the Social Insurance Number of the beneficiary under the plan and the Social Insurance Number or business number, as the case may be, of each person with which the issuer has entered into the plan; and

(c) at the time the plan is entered into, the beneficiary under the plan is resident in Canada, except that this condition does not apply if, at that time, the beneficiary is the beneficiary under another registered disability savings plan.

Applicability.

Unless the Minister decides otherwise, an issuer is considered to have satisfied the condition set out in subparagraph *a* of the first paragraph in respect of the plan if the issuer has received, in relation to the plan, a notification from the Minister of National Revenue in accordance with paragraph *a* of subsection 2 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(2).

Conditions in respect of disability savings plan.

905.0.6. The conditions to which subparagraph *a* of the first paragraph of section 905.0.5 refers are as follows:

(a) the plan stipulates

i. that it is to be operated exclusively for the benefit of the beneficiary under the plan,

- ii. that the designation of the beneficiary under the plan is irrevocable, and
- iii. that no right of the beneficiary to receive payments from the plan is capable, either in whole or in part, of surrender or assignment;
- (b) the plan allows a person to acquire rights as a successor or assignee of a holder of the plan only if the person is
- i. the beneficiary under the plan,
 - ii. the beneficiary's succession,
 - iii. a holder of the plan at the time the rights are acquired,
 - iv. a qualifying person in relation to the beneficiary under the plan at the time the rights are acquired, or
 - v. an individual who is the father or mother of the beneficiary under the plan and was previously a holder of the plan;
- (c) the plan provides that, if a person, other than a qualifying family member in relation to the beneficiary under the plan, who is a holder of the plan ceases to be a qualifying person in relation to the beneficiary under the plan at any time, the person ceases at that time to be a holder of the plan;
- (d) the plan provides for there to be at least one holder of the plan at all times that the plan is in existence and may provide for the beneficiary under the plan or the beneficiary's succession to automatically acquire rights as a successor or assignee of a holder in order to ensure compliance with this requirement;
- (e) the plan provides that, if a person becomes a holder of the plan after the plan is entered into, the person is prohibited, except to the extent otherwise permitted by the Minister or the Minister responsible for the administration of the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35), from exercising the person's rights as a holder of the plan until the issuer has been advised of the person having become a holder of the plan and been provided with the person's Social Insurance Number or business number;
- (f) the plan prohibits contributions from being made to the plan at any time if
- i. the beneficiary is not an individual eligible for the tax credit for severe and prolonged impairment in mental or physical functions for the taxation year that includes that time, unless the contribution is a specified RDSP payment within the meaning of subsection 1 of section 60.02 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the beneficiary and, at that time, a valid election is made under subsection 4.1 of section 146.4 of that Act in respect of the beneficiary, or
 - ii. the beneficiary died before that time;
- (g) the plan prohibits a contribution from being made to the plan at any time if
- i. the beneficiary reached 59 years of age before the calendar year that includes that time,
 - ii. the beneficiary is not resident in Canada at that time, or
 - iii. the total of the contribution and all other contributions made at or before that time to the plan or to any other registered disability savings plan of the beneficiary would exceed \$200,000;
- (h) the plan prohibits contributions to the plan by any person who is not a holder of the plan, except with the written consent of a holder of the plan;
- (i) the plan provides that no payments may be made from the plan other than
- i. disability assistance payments,
 - ii. a transfer in accordance with section 905.0.16, and
 - iii. repayments under the Canada Disability Savings Act or a designated provincial program;
- (j) the plan prohibits a disability assistance payment from being made if it would result in the fair market value of the property held by the plan trust immediately after the payment being less than the assistance holdback amount in relation to the plan;
- (k) the plan provides for lifetime disability assistance payments to begin to be paid no later than the end of the calendar year in which the beneficiary under the plan reaches 60 years of age or, if the plan is entered into in or after the calendar year, in the calendar year following the calendar year in which the plan is entered into;
- (l) the plan provides that the total amount of lifetime disability assistance payments made in a calendar year, other than a specified year for the plan, must not exceed the amount determined by the formula
- $$[A / (B + 3 - C)] + D;$$
- (m) the plan stipulates whether or not disability assistance payments that are not lifetime disability assistance payments are to be permitted under the plan;
- (n) the plan provides that when the total of all amounts paid under the Canada Disability Savings Act before the beginning of a calendar year to any registered disability savings plan of the beneficiary exceeds the total of all contributions made before the beginning of the calendar year to any registered disability savings plan of the beneficiary,

i. if the calendar year is not a specified year for the plan, the total amount of disability assistance payments made to the beneficiary under the plan in the year must not exceed the specified maximum amount for the year, except that, in calculating that total amount, a payment made following a transfer in the year from another plan in accordance with section 905.0.16 is to be disregarded if it is made

(1) to satisfy an undertaking described in paragraph *d* of section 905.0.16, or

(2) in lieu of a payment that could otherwise have been made under the other plan in the year had the transfer not occurred, and

ii. (*subparagraph repealed*);

iii. if the beneficiary under the plan reached 27 years of age, but not 59 years of age, before the calendar year, the beneficiary has the right to direct that, within the constraints imposed by subparagraph *i* and by subparagraph *j*, one or more disability assistance payments be made under the plan to the beneficiary in the year;

(*n.1*) the plan provides that, if the beneficiary under the plan reached 59 years of age before a calendar year, the total amount of disability assistance payments made to the beneficiary in the calendar year must not be less than the amount determined by the formula in subparagraph *l* in respect of the plan for the year or such lesser amount as is supported by the property of the plan trust;

(*o*) the plan provides that, at the direction of the holders of the plan, the issuer shall transfer all of the property held by the plan trust or an amount equal to its value to another registered disability savings plan of the beneficiary, together with all information in its possession (other than information provided to the issuer of the other plan by the Minister responsible for the administration of the Canada Disability Savings Act) that may reasonably be considered necessary for compliance, in respect of the other plan, with the requirements of this Part and with any conditions and obligations under that Act; and

(*p*) the plan provides for any amounts remaining in the plan, after taking into consideration any repayments under the Canada Disability Savings Act or a designated provincial program, to be paid to the beneficiary under the plan or the beneficiary's succession, and for the plan to cease to exist, at or before the end of the calendar year following the earlier of

i. the calendar year in which the beneficiary under the plan dies, and

ii. the first calendar year

(1) if a valid election is made under subsection 4.1 of section 146.4 of the Income Tax Act, that includes the time

that the election ceases because of paragraph *b* of subsection 4.2 of section 146.4 of that Act to be valid, or

(2) throughout which the beneficiary has no severe and prolonged impairment in mental or physical functions the effects of which are described in paragraph *a.1* of subsection 1 of section 118.3 of the Income Tax Act.

Interpretation.

In the formula in subparagraph *l* of the first paragraph,

(*a*) A is the fair market value of the property held by the plan trust at the beginning of the calendar year, other than annuity contracts that, at the beginning of the calendar year, are not described in paragraph *b* of the definition of "qualified investment" in subsection 1 of section 146.4 of the Income Tax Act;

(*b*) B is the greater of 80 and the age in whole years of the beneficiary at the beginning of the calendar year;

(*c*) C is the age in whole years of the beneficiary at the beginning of the calendar year; and

(*d*) D is the aggregate of all amounts each of which is

i. a periodic payment under an annuity contract held by the plan trust at the beginning of the calendar year, other than an annuity contract described at the beginning of the calendar year in paragraph *b* of the definition of "qualified investment" in subsection 1 of section 146.4 of the Income Tax Act, that is paid to the plan trust in the calendar year, or

ii. if the periodic payment under an annuity contract described in subparagraph *i* is not made to the plan trust because the plan trust disposed of the right to that payment in the calendar year, an amount that is a reasonable estimate of that payment on the assumption that the annuity contract had been held throughout the calendar year by the plan trust and no rights under the contract were disposed of in the calendar year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 4.1 of section 146.4 of the Income Tax Act.

Transitional rule.

Where the calendar year 2011 or 2012 is the first calendar year throughout which the beneficiary of a registered disability savings plan has no severe and prolonged impairment in mental or physical functions the effects of which are described in paragraph *a.1* of subsection 1 of section 118.3 of the Income Tax Act and the plan has not been terminated, the plan must, despite subparagraph *p* of the first paragraph, as it read on 28 March 2012 and any terms of the plan required by that subparagraph, be terminated on or

before 31 December 2014, unless a valid election is made under subsection 4.1 of section 146.4 of the Income Tax Act.

History: 2009, c. 15, s. 168; 2010, c. 5, s. 88; 2011, c. 6, s. 180; 2013, c. 10, s. 73; 2015, c. 21, s. 343; 2020, c. 16, s. 136.

Corresponding Federal Provision: 146.4(4)(p)(ii) and (4.3).

Nullity of registration.

905.0.7. A disability savings plan is deemed never to have been a registered disability savings plan unless

(a) the issuer of the plan provides without delay notification of the plan's establishment in the prescribed form containing prescribed information to the Minister; and

(b) if the beneficiary is the beneficiary under another registered disability savings plan at the time the plan is established, that other plan is terminated without delay.

Applicability.

Unless the Minister decides otherwise, an issuer of a disability savings plan is considered to have notified the Minister in the manner specified in subparagraph *a* of the first paragraph, in relation to the plan, if the issuer has notified, in relation to the plan, the Minister responsible for the administration of the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35) in accordance with paragraph *a* of subsection 3 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2009, c. 15, s. 168; 2015, c. 21, s. 344.

Corresponding Federal Provision: 146.4(3).

Deemed nullity of registration.

905.0.8. For the purposes of this Title, a disability savings plan that is deemed never to have been a registered disability savings plan because of paragraph *a* or *b* of subsection 3 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed never to have been a registered disability savings plan.

History: 2009, c. 15, s. 168.

CHAPTER II TAX

Trust not taxable.

905.0.9. No tax is payable under this Part by a trust on its taxable income for a taxation year if, throughout the period of the year in which the trust is in existence, the trust is governed by a registered disability savings plan.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(5) before (a).

Exception in case of loan.

905.0.10. Despite section 905.0.9, a trust governed by a registered disability savings plan shall pay tax under this Part on its taxable income for a taxation year if the trust

(a) has borrowed money in the year; or

(b) has borrowed money in a preceding taxation year and has not repaid it before the beginning of the year.

History: 2009, c. 15, s. 168; 2010, c. 5, s. 89.

Corresponding Federal Provision: 146.4(5)(a).

Exception in case of business.

905.0.11. If section 905.0.10 does not apply, a trust governed by a registered disability savings plan that carries on a business in a taxation year shall, despite section 905.0.9, pay tax under this Part on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than that business.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(5)(b) before (i).

Exception in case of non-qualified investment.

905.0.12. If section 905.0.10 does not apply and a trust governed by a registered disability savings plan holds, in a taxation year, a property that is not a qualified investment (within the meaning assigned to that expression by subsection 1 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)) for the trust, the trust shall, despite section 905.0.9, pay tax under this Part on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than properties that are not qualified investments for the trust and no capital gains or capital losses other than from the disposition of such properties.

History: 2009, c. 15, s. 168; 2012, c. 8, s. 146; 2020, c. 16, s. 137.

Corresponding Federal Provision: 146.4(5)(b).

Rules of application.

905.0.13. For the purposes of sections 905.0.11 and 905.0.12, the following rules apply:

(a) a trust's income includes the dividends described in sections 501 to 503; and

(b) the first paragraph of section 231 must be construed as if the taxable capital gain or allowable capital loss were the total capital gain or the total capital loss, as the case may be, from the disposition of property.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(5)(b)(i) and (ii).

CHAPTER III AMOUNT TO BE INCLUDED

Inclusion of disability assistance payments.

905.014. If a disability assistance payment is made under a registered disability savings plan of a beneficiary, the amount by which the amount of the payment exceeds the non-taxable portion of the payment must be included,

(a) if the beneficiary is alive at the time the payment is made, in computing the beneficiary's taxable income for the taxation year in which the payment is made; and

(b) if the beneficiary is deceased at the time the payment is made, in computing the taxable income of the beneficiary's succession for the succession's taxation year in which the payment is made.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(6).

Non-taxable portion.

905.015. The non-taxable portion of a disability assistance payment made at a particular time under a registered disability savings plan of a beneficiary is the lesser of the amount of the disability assistance payment and the amount determined by the formula

$$A \times B/C + D$$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount of the disability assistance payment;

(b) B is the amount by which the aggregate of all amounts each of which is the amount of a contribution made before the particular time to any registered disability savings plan of the beneficiary exceeds the aggregate of all amounts each of which would be the non-taxable portion of a disability assistance payment made before the particular time under any registered disability savings plan of the beneficiary if the formula in the first paragraph were read without reference to D;

(c) C is the amount by which the fair market value of the property held by the plan trust immediately before the disability assistance payment exceeds the assistance holdback amount in relation to the plan;

(d) D is an amount in respect of which a holder of the plan pays a tax under section 207.05 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in relation to the plan, or another plan for which the plan was substituted by the holder, that

i. has not been waived, cancelled or refunded, and

ii. has not otherwise been used in the year or a preceding year in computing the non-taxable portion of a disability assistance payment made under the plan or another plan for which the plan was substituted.

History: 2009, c. 15, s. 168; 2011, c. 6, s. 181; 2020, c. 16, s. 138.

Corresponding Federal Provision: 146.4(7).

Amount transferred.

905.016. An amount is transferred from a registered disability savings plan (in this section referred to as the "prior plan") of a beneficiary in accordance with this section if

(a) the amount is transferred directly to another registered disability savings plan (in this section referred to as the "new plan") of the beneficiary;

(b) the prior plan ceases to exist immediately after the transfer;

(c) the issuer of the prior plan provides the issuer of the new plan with all information in its possession concerning the prior plan (other than information provided to the issuer of the new plan by the Minister responsible for the administration of the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35)) as may reasonably be considered necessary for compliance, in respect of the new plan, with the requirements of this Part and the issuer of the new plan confirms that it has in its possession all information provided by the issuer of the prior plan and by that Minister that is necessary for the purposes of paragraph *c* of subsection 8 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(d) if the beneficiary reached 59 years of age before the calendar year in which the transfer occurs, the issuer of the new plan undertakes to make—in addition to any other disability assistance payments that would otherwise have been made under the new plan in the year—one or more disability assistance payments under the plan in the year, the total of which is equal to the amount by which the total amount of disability assistance payments that would have been required to be made under the prior plan in the year if the transfer had not occurred exceeds the total amount of disability assistance payments made under the prior plan in the year.

History: 2009, c. 15, s. 168; 2015, c. 21, s. 345.

Corresponding Federal Provision: 146.4(8).

Amount not included in computation of income.

905.017. An amount transferred in accordance with section 905.016 is not, solely because of that transfer, to be included in computing the income of a taxpayer.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(9).

CHAPTER IV NON-COMPLIANT PLAN

Non-compliant plan.

905.0.18. A registered disability savings plan is non-compliant, at any time, if at that time

(a) it fails to comply with a condition set out in section 905.0.6;

(b) there is a failure to administer the plan in accordance with its terms, other than those terms which the plan is required by subparagraph *i* of subparagraph *a* of the first paragraph of section 905.0.6 to stipulate; and

(c) a person fails to comply with conditions or obligations imposed, with respect to the plan, under the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35), and the Minister responsible for that Act is of the opinion that it is appropriate that the plan be considered to be non-compliant because of the failure in accordance with paragraph *c* of subsection 11 of section 146.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(11).

Exception.

905.0.19. If, but for this section, a registered disability savings plan would be non-compliant at a particular time because of a failure described in paragraph *a* or *b* of section 905.0.18,

(a) the Minister may waive the application of either paragraph with respect to the failure, if it is just and equitable to do so;

(b) the Minister may deem the failure to have occurred at a later time;

(c) if the failure consists of the making of a contribution that is prohibited under any of subparagraphs *f* to *h* of the first paragraph of section 905.0.6, an amount equal to the amount of the contribution has been withdrawn from the plan within such period as is specified by the Minister and the Minister has approved the application of this paragraph with respect to the failure, the following rules apply:

- i. the contribution is deemed never to have been made, and
- ii. the withdrawal is deemed not to be a disability assistance payment and not to be in contravention of the condition set out in subparagraph *i* of the first paragraph of section 905.0.6; or

(d) if the failure consists of the plan not being terminated within the period specified in subparagraph *p* of the first paragraph of section 905.0.6 and was due either to the issuer

not being aware of the circumstances under which the plan ceases to exist or to some uncertainty as to the existence of those circumstances, the Minister may specify a later date on or before which it is reasonable to consider that the plan ceases to exist in an orderly manner and, for the purposes of paragraphs *a* and *b* of section 905.0.18, subparagraph *p* of the first paragraph of section 905.0.6 and the plan terms are to be read as though they required the plan to cease to exist at the date so specified.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(12).

Rules applicable.

905.0.20. If, at a particular time, a registered disability savings plan is non-compliant under section 905.0.18, the following rules apply:

(a) the plan ceases, at that particular time, to be a registered disability savings plan, other than for the purpose of applying, at that particular time, section 905.0.18 and this section;

(b) a disability assistance payment is deemed to have been made under the plan at the time (in this section referred to as the “relevant time”) immediately before the particular time to the beneficiary under the plan or, if the beneficiary is deceased at the relevant time, to the beneficiary’s succession, the amount of which payment is equal to the amount by which the fair market value of the property held by the plan trust at the relevant time exceeds the assistance holdback amount in relation to the plan; and

(c) if the plan is non-compliant because of a payment that is not in accordance with subparagraph *j* of the first paragraph of section 905.0.6, a disability assistance payment the amount of which is equal to the amount determined in the second paragraph and the non-taxable portion of which is deemed to be nil, is deemed to have been made under the plan at the relevant time—in addition to the payment deemed by subparagraph *b* to have been made—to the beneficiary under the plan or, if the beneficiary is deceased at the relevant time, to the beneficiary’s succession.

Determination of amount.

The amount to which subparagraph *c* of the first paragraph refers is equal to the amount by which the lesser of the assistance holdback amount in relation to the plan and the fair market value of the property held by the plan trust at the relevant time exceeds the fair market value of the property held by the plan trust immediately after the particular time.

History: 2009, c. 15, s. 168.

Corresponding Federal Provision: 146.4(10).

Obligations of issuer.

905.0.21. The issuer of a registered disability savings plan shall,

(a) if a person becomes a holder of the plan after the plan is entered into, so notify the Minister in the prescribed form containing prescribed information on or before the day that is 60 days after the day on which the issuer is notified that the person has become a holder of the plan or, if it is later, the day on which the issuer is provided with the new holder's Social Insurance Number or business number;

(b) not amend the plan before having received a written notice from the Minister that, in the Minister's opinion, a plan whose terms are identical to the amended plan would, if entered into by a person eligible to enter into a disability savings plan, comply with the conditions set out in the first paragraph of section 905.0.6;

(c) notify the Minister in writing on or before the day that is 30 days after the day on which the issuer becomes aware that the plan is, or is likely to become, non-compliant, as determined without reference to paragraph *c* of section 905.0.18 and section 905.0.19;

(d) (*paragraph repealed*);

(e) if the issuer enters into the plan with a qualifying family member who was a qualifying person in relation to the beneficiary under the plan at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of the application of paragraph *c* of the definition of "qualifying person" in the first paragraph of section 905.0.3,

i. so notify the beneficiary under the plan without delay in writing and include in the notification information setting out the circumstances in which the holder of the plan may be replaced under section 905.0.3.1 or 905.0.3.2, and

ii. collect and use any information provided by the holder of the plan that is relevant to the administration and operation of the plan.

Applicability.

Unless the Minister decides otherwise, an issuer is considered to have satisfied the obligation imposed under subparagraph *b* of the first paragraph in respect of the amended plan if the issuer has received, in relation to the plan, a notice from the Minister of National Revenue in accordance with paragraph *a* of subsection 2 of section 146.4 of the Income Tax Act.

History: 2009, c. 15, s. 168; 2013, c. 10, s. 74; 2015, c. 21, s. 346; 2020, c. 16, s. 139.

Corresponding Federal Provision: 146.4(13).

TITLE IV

REGISTERED RETIREMENT SAVINGS PLANS

CHAPTER I

INTERPRETATION AND REGISTRATION

Definitions:

905.1. In this Title,

"benefit";

(a) "benefit" includes any amount received out of or under a retirement savings plan, whether in accordance with the terms of the plan, resulting from an amendment to or modification of the plan or resulting from the termination of the plan, other than

i. the portion thereof received by a person other than the annuitant that can reasonably be regarded as part of the amount included in computing the income of the annuitant by virtue of section 915.2,

ii. an amount received by the person with whom the annuitant entered into a contract or arrangement contemplated in the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a premium under the plan,

ii.1. an amount in respect of which the annuitant pays a tax under Part XI.01 of the Income Tax Act, unless the tax is waived, cancelled or refunded,

iii. an amount, or part thereof, received in respect of the income of the trust governed by the plan, for a taxation year contemplated in section 921.1, and

iv. a tax-paid amount described in subparagraph ii of paragraph *c.1* that relates to interest or to another amount included in computing income otherwise than because of any of the provisions of this Title;

"annuitant";

(b) "annuitant" means, until such time after the date provided for the first payment of benefits as his spouse becomes entitled, as a consequence of his death, to receive benefits to be paid out of or under the plan, the individual referred to in the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act for whom, under a retirement savings plan, a retirement income is to be provided, and, after the individual's death, his spouse;

"issuer";

(c) "issuer" means the person referred to in the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act with whom an annuitant has a contract or arrangement that is a retirement savings plan;

"tax-paid amount";

(c.1) "tax-paid amount", in respect of a registered retirement savings plan, means

i. an amount paid to a person in respect of the amount that would, if this Part were read without reference to paragraph *a* of section 657 and section 657.1, be income of a trust governed by the plan for a taxation year for which the trust is subject to tax under this Part because of section 921.1, or

ii. where the plan is a deposit with a depositary referred to in clause B of subparagraph iii of paragraph *b* of the definition of “retirement savings plan” in subsection 1 of section 146 of the Income Tax Act, and an amount is received at any time out of or under the plan by a person, the portion of the amount that may reasonably be considered to relate to interest or another amount in respect of the deposit that is required to be included in computing the income of any person, other than the annuitant, otherwise than because of any of the provisions of this Title;

(d) (*paragraph repealed*);

“*premium*”;

(e) “premium” has the meaning assigned by subsection 1 of section 146 of the Income Tax Act;

“*spousal plan*”;

“*spousal plan*”.

(f) “spousal plan”, in relation to an individual, means

i. a registered retirement savings plan

(1) to which the individual has paid a premium at a time when his spouse was the annuitant under the plan, or

(2) that has received a payment out of or a transfer from a registered retirement savings plan or a registered retirement income fund that was a spousal plan in relation to the individual, or

ii. a registered retirement income fund that has received a payment out of or a transfer from a spousal plan in relation to the individual;

“*retirement income*”.

(g) “retirement income” has the meaning assigned by subsection 1 of section 146 of the Income Tax Act.

History: 1980, c. 13, s. 76; 1984, c. 15, s. 195; 1986, c. 15, s. 130; 1988, c. 18, s. 71; 1991, c. 25, s. 113; 1995, c. 49, s. 197; 2000, c. 5, s. 209; 2001, c. 53, s. 187; 2005, c. 1, s. 198; 2012, c. 8, s. 147.

Corresponding Federal Provision: 146(1).

Specified pension plan – contribution.

905.1.1. For the purposes of this Title and paragraph *a* of sections 462.24, 935.3 and 935.14, a contribution made by an individual to an account of the individual, or of the individual’s spouse, under a specified pension plan is deemed to be a premium paid by the individual to a registered

retirement savings plan under which the individual, or the individual’s spouse, as the case may be, is the annuitant.

History: 2013, c. 10, s. 75.

Corresponding Federal Provision: 146(21.1).

Specified pension plan — account.

905.1.2. For the purposes of section 133.4, subparagraph i of paragraph *a* of the definition of “excluded right or interest” in section 785.0.1, subparagraph *d* of the first paragraph of section 890.0.1, sections 913 and 924.0.1, paragraph *b* of the definition of “excluded premium” in the first paragraph of section 935.1, paragraph *c* of the definition of “excluded premium” in the first paragraph of section 935.12, subparagraph *b* of the second paragraph of section 961.17, Chapter III of Title VI.0.1 and paragraph *c* of section 965.0.35, an individual’s account under a specified pension plan is deemed to be a registered retirement savings plan under which the individual is the annuitant.

History: 2013, c. 10, s. 75; 2015, c. 21, s. 347.

Corresponding Federal Provision: 146(21.2).

Specified pension plan – payment.

905.1.3. For the purposes of sections 924.1, 931.1, 931.3 and 931.5, a payment received by an individual from a specified pension plan is deemed to be a payment received by the individual from a registered retirement savings plan.

History: 2013, c. 10, s. 75.

Corresponding Federal Provision: 146(21.3).

Exception.

905.2. Paragraph *d* of section 905.1, as limited in its application by subsection 2 of section 71 of the Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18), applies from 1 January 1989 only for the purposes of sections 923.1 to 923.2.1.

History: 1991, c. 25, s. 114.

905.3. (*Repealed*).

History: 1991, c. 25, s. 114; 1994, c. 22, s. 286.

906. (*Repealed*).

History: 1972, c. 23, s. 669; 1991, c. 25, s. 115.

907. (*Repealed*).

History: 1972, c. 23, s. 670; 1972, c. 26, s. 64; 1975, c. 21, s. 20; 1979, c. 18, s. 60; 1982, c. 5, s. 154; 1988, c. 18, s. 72; 1991, c. 25, s. 115.

Refund of premiums.

908. In this Title, a refund of premiums means any amount paid out of or under a registered retirement savings plan by reason of the death of the annuitant under the plan, other than a tax-paid amount in respect of the plan, to

(a) the individual who, immediately before the death of the annuitant, was the spouse of the annuitant, where the annuitant died before the date provided for the first payment of benefits; or

(b) the child or grandchild of the annuitant who was, immediately before the death of the annuitant, financially dependent on the annuitant for support.

Presumption.

For the purposes of subparagraph *b* of the first paragraph, a child or grandchild of the annuitant is deemed not to be financially dependent on the annuitant at the time of the death of the annuitant if the child's or grandchild's income, for the taxation year preceding the taxation year in which the annuitant died, was greater than the amount determined under the formula provided for in subsection 1.1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for that preceding year.

History: 1972, c. 23, s. 671; 1977, c. 26, s. 95; 1979, c. 18, s. 61; 1980, c. 13, s. 77; 1984, c. 15, s. 196; 1986, c. 15, s. 131; 1988, c. 18, s. 73; 1989, c. 5, s. 158; 1991, c. 25, s. 116; 1993, c. 64, s. 96; 1995, c. 49, s. 198; 2000, c. 5, s. 210; 2001, c. 53, s. 188; 2004, c. 8, s. 171; 2005, c. 1, s. 199; 2019, c. 14, s. 281.

Corresponding Federal Provision: 146(1) "remboursement de primes" and (1.1).

909. *(Repealed).*

History: 1972, c. 23, s. 672; 1979, c. 18, s. 62; 1980, c. 13, s. 78; 1988, c. 18, s. 74; 1991, c. 25, s. 117.

910. *(Repealed).*

History: 1972, c. 23, s. 673; 1977, c. 26, s. 96; 1979, c. 18, s. 63; 1980, c. 13, s. 79; 1984, c. 15, s. 197; 1988, c. 18, s. 75; 1991, c. 25, s. 117.

910.1. *(Repealed).*

History: 1982, c. 5, s. 155; 1991, c. 25, s. 117.

911. *(Repealed).*

History: 1972, c. 23, s. 674; 1972, c. 26, s. 65; 1979, c. 18, s. 64; 1980, c. 13, s. 80; 1984, c. 15, s. 198; 1987, c. 67, s. 167; 1988, c. 18, s. 76; 1991, c. 25, s. 117.

912. *(Repealed).*

History: 1972, c. 23, s. 675; 1991, c. 25, s. 117.

Payment or transfer of property.

913. Where a registered retirement savings plan is revised or amended at any time to provide for the payment or transfer, before the date provided for the first payment of benefits, of any property under the plan by the issuer on behalf of the annuitant under the plan, in this section referred

to as the "transferor", to a registered pension plan for the benefit of the transferor or to a registered retirement savings plan or a registered retirement income fund under which the transferor is the annuitant, or to a registered retirement savings plan or a registered retirement income fund under which the spouse or former spouse of the transferor is the annuitant, where the transferor and his spouse or former spouse are living separate and apart and the payment or transfer is made under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a partition of property between the transferor and his spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage, the amount paid or transferred on behalf of the transferor shall not, by reason only of such payment or transfer, be included in computing the income of the transferor or his spouse or former spouse and no deduction may be made in computing the income of any individual under Chapter III of Title II of Book III in respect of the amount so paid or transferred.

History: 1972, c. 23, s. 676; 1972, c. 26, s. 66; 1977, c. 26, s. 97; 1979, c. 18, s. 65; 1980, c. 13, s. 81; 1984, c. 15, s. 199; 1988, c. 18, s. 77; 1991, c. 25, s. 118; 1994, c. 22, s. 287; 1995, c. 49, s. 236; 1997, c. 14, s. 290.

Corresponding Federal Provision: 146(16).

New plan deemed not to be an RRSP.

914. Where a registered retirement savings plan is revised, amended or, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), deemed to have been amended under subsection 13.2 of section 146 of that Act, or where another plan is substituted therefor and the resultant plan is deemed, under subsection 12 of that section 146, not to be a registered retirement savings plan for the purposes of that Act, the following rules apply:

(a) the new plan is deemed, for the purposes of this Part, not to be a registered retirement savings plan, and

(b) the individual who was the annuitant under the plan before such operation shall, in computing his income for the taxation year in which the operation took place, include as income received at the time of that operation, an amount equal to the fair market value of all the property of the plan immediately before that time.

History: 1972, c. 23, s. 677; 1977, c. 26, s. 98; 1978, c. 26, s. 168; 1988, c. 18, s. 78; 1991, c. 25, s. 118; 1998, c. 16, s. 212.

Corresponding Federal Provision: 146(12).

914.1. *(Repealed).*

History: 1984, c. 15, s. 200; 1991, c. 25, s. 119.

Plan substituted.

915. For the purposes of section 914, an arrangement under which the payment of an amount is made on the security of a right under the plan or which provides for the

release or extinction, in whole or in part, of a right or obligation under a registered retirement savings plan, either in exchange or substitution for any right or obligation, or otherwise, except an arrangement the sole object and effect of which is to revise or amend the plan is deemed to be another plan substituted for a registered retirement savings plan.

History: 1972, c. 23, s. 678.

Corresponding Federal Provision: 146(13).

915.1. *(Repealed).*

History: 1979, c. 18, s. 66; 1980, c. 13, s. 82; 1988, c. 18, s. 79.

Effect of death where person other than spouse becomes entitled.

915.2. Where the annuitant under a registered retirement savings plan dies after 29 June 1978 and the date provided by the plan for the first payment of benefits is after 29 June 1978, the annuitant is deemed to have received, immediately before death, as a benefit out of or under a registered retirement savings plan, an amount equal to the amount by which the fair market value of all the property of the plan at the time of death exceeds, where the annuitant died after the date provided by the plan for the first payment of benefits, the fair market value at the time of the death of the portion of the property that, as a consequence of the death, becomes receivable by a person who was the annuitant's spouse immediately before the death, or would become so receivable should that person survive throughout the entire period for which a guaranteed term annuity is provided for under the plan.

Deduction.

However, the annuitant contemplated in the first paragraph may deduct from the amount he is deemed to have received under that paragraph an amount not exceeding the amount determined by the formula

$$A \times \{1 - [(B + C - D) / (B + C)]\}.$$

Interpretation.

For the purposes of the formula in the second paragraph,

(a) A is the aggregate of

- i. all refunds of premiums in respect of the plan,
- ii. all tax-paid amounts in respect of the plan paid to individuals who, otherwise than because of section 930, received refunds of premiums in respect of the plan, and
- iii. all amounts each of which is a tax-paid amount in respect of the plan paid to the legal representative of the annuitant under the plan, to the extent that the legal representative would have been entitled to designate that tax-paid amount

under section 930 if tax-paid amounts were not excluded in determining refunds of premiums;

(b) B is the fair market value of the property of the plan at the particular time that is the later of the end of the first calendar year that begins after the death of the annuitant and the time immediately after the last time that any refund of premiums in respect of the plan is paid out of or under the plan;

(c) C is the aggregate of all amounts paid out of or under the plan after the death of the annuitant and before the particular time; and

(d) D is the lesser of the fair market value of the property of the plan at the time of the annuitant's death and the aggregate of all amounts determined in respect of the plan under paragraphs b and c.

History: 1979, c. 18, s. 66; 1980, c. 13, s. 83; 1995, c. 49, s. 199; 2000, c. 5, s. 211.

Corresponding Federal Provision: 146(8.8) and (8.9).

915.3. *(Repealed).*

History: 1979, c. 18, s. 66; 1988, c. 18, s. 79.

Election.

915.4. Where an annuitant under a registered retirement savings plan dies after the date provided for the first payment of benefits and where his legal representative, as a consequence of the death, becomes entitled to receive an amount out of or under the plan for the benefit of the spouse of the annuitant, the spouse is deemed to have become the annuitant under the plan as a consequence of the annuitant's death, and such amount is deemed to be receivable by the spouse and, when paid, to be received by the spouse as a benefit under the plan and not to be received by any other person.

Applicability.

This section applies only if the legal representative and the spouse of the annuitant file with the Minister an election to that effect in prescribed form.

History: 1980, c. 13, s. 84; 2001, c. 53, s. 189.

Corresponding Federal Provision: 146(8.91).

916. *(Repealed).*

History: 1972, c. 23, s. 679; 1991, c. 25, s. 120.

Benefits received in taxation year.

917. Notwithstanding any other provision of this Title, an amount received in a taxation year as a benefit under a registered retirement savings plan which was not, at the end of the year in which the plan started, a registered retirement savings plan, is deemed to have been received in the year otherwise than as a benefit or other payment under a

registered retirement savings plan, except for any prescribed part.

History: 1972, c. 23, s. 680; 1982, c. 5, s. 156; 1991, c. 25, s. 121.

Corresponding Federal Provision: 146(15).

Amount credited or added to RRSP.

917.J. Where, at any particular time, an amount is credited or added to a deposit with a depository referred to in subparagraph iii of paragraph *b* of the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement savings plan the annuitant under which was alive during the calendar year in which the amount is credited or added or during the preceding calendar year, the amount is deemed not to be received by the annuitant or any other person solely because of the crediting or adding.

History: 1991, c. 25, s. 122; 1995, c. 49, s. 200.

Corresponding Federal Provision: 146(20).

918. (*Repealed*).

History: 1977, c. 26, s. 99; 1988, c. 18, s. 80; 1991, c. 25, s. 123.

CHAPTER II TAX

No tax while trust governed by plan.

919. No tax is payable by a trust under this Part for a taxation year if throughout the period of the year during which it is in existence it is governed by a registered retirement savings plan.

History: 1972, c. 23, s. 681; 1975, c. 22, s. 224.

Corresponding Federal Provision: 146(4) before (a).

Exception from tax exemption.

920. (1) Notwithstanding section 919, a trust contemplated therein must pay tax under this Part on its taxable income for a taxation year if it borrows money in the year or has, since 18 June 1971, borrowed money which it has not repaid before the beginning of the year.

Application.

(2) The rule provided for in subsection 1 does not apply in the case of borrowed money used in carrying on a business.

History: 1972, c. 23, s. 682; 1995, c. 49, s. 201.

Corresponding Federal Provision: 146(4)(a).

Other exception from tax exemption.

921. Where section 920 does not apply, a trust governed by a registered retirement savings plan that carries on a business in a taxation year must, notwithstanding section 919, pay tax under this Part on the amount by which the amount that its taxable income for the year would be if it

had no incomes or losses from sources other than that business, exceeds such portion of the taxable income as can reasonably be considered to be income from, or from the disposition of, qualified investments within the meaning of subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1972, c. 23, s. 683; 1995, c. 49, s. 202.

Corresponding Federal Provision: 146(4)(b).

Other exception from tax exemption.

921.1. Notwithstanding section 919, a trust governed by a registered retirement savings plan must pay tax under this Part on its taxable income for each taxation year after the year following the year in which the last annuitant under the plan died.

History: 1980, c. 13, s. 85; 1995, c. 49, s. 202.

Corresponding Federal Provision: 146(4)(c).

Where tax payable.

921.2. Despite section 919, where, in a taxation year, a trust governed by a registered retirement savings plan holds a property that is a non-qualified investment for the purposes of subsection 10.1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than non-qualified investments and no capital gains or capital losses other than from dispositions of non-qualified investments.

History: 1987, c. 67, s. 168; 1991, c. 25, s. 124; 2012, c. 8, s. 148.

Corresponding Federal Provision: 146(10.1) and 207.04(3).

Interpretation

921.3. For the purposes of section 921.2,

(a) the income of a trust includes dividends described in sections 501 to 503;

(b) the first paragraph of section 231 shall be interpreted as if the taxable capital gain or the allowable capital loss represented the total capital gain or total capital loss, as the case may be, resulting from the disposition of a property.

History: 1987, c. 67, s. 168; 1990, c. 59, s. 326.

Corresponding Federal Provision: 146(10.1)(b).

CHAPTER III DEDUCTIONS

Deduction of RRSP premiums.

922. An individual may deduct, in computing his income for a taxation year, the amount that, by virtue of subsection 5 of section 146 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. 684; 1974, c. 18, s. 29; 1975, c. 22, s. 225; 1976, c. 18, s. 15; 1977, c. 26, s. 100; 1982, c. 5, s. 157; 1984, c. 15, s. 201; 1988, c. 18, s. 81; 1991, c. 25, s. 125.

Corresponding Federal Provision: 146(5).

Deduction in respect of certain R.R.S.P. reimbursements.

922.1. An individual may deduct in computing the individual's income for a taxation year, the amount by which the amount that the individual designates for the year under subsection 3 of section 146.01 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) exceeds the amount that the individual designates for the year under section 935.3, to the extent that the excess may reasonably be considered to be paid as reimbursement of an amount that is an eligible amount as defined in subsection 1 of that section 146.01 and that was included, because of the application of section 929, in computing the individual's income for the taxation year in which it was received by the individual.

Deduction on filing of document.

No individual may benefit from the deduction provided for in the first paragraph unless the individual encloses, with the fiscal return the individual is required to file under section 1000 for the year, a copy of the document the individual is required to file with the Minister of Revenue of Canada under subsection 3 of section 146.01 of the Income Tax Act of Canada.

History: 2001, c. 53, s. 190.

Deduction of spouse RRSP premiums.

923. An individual may deduct, in computing his income for a taxation year, the amount that, by virtue of subsection 5.1 of section 146 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: 1975, c. 21, s. 21; 1977, c. 26, s. 101; 1991, c. 25, s. 125.

Corresponding Federal Provision: 146(5.1).

Commutation of entitlement to benefits under a defined benefit provision of a registered pension plan.

923.0.1. If an individual's entitlement to benefits under a defined benefit provision of a registered pension plan is transferred, after 28 February 2009 and before 1 January 2011, in accordance with section 965.0.8, there may be deducted in computing the individual's income for a taxation year that ends on or after the day on which the transfer was made, in respect of a premium paid by the individual to a registered retirement savings plan under which the individual is the annuitant, the amount that is allowed as a deduction for the year in computing the individual's income for the purposes of the Income Tax Act

(Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under subsection 5.2 of section 146 of that Act.

Election.

A premium referred to in the first paragraph that is paid before 1 January 2013 is deemed, if the individual makes a valid election under subsection 5.201 of section 146 of the Income Tax Act, in respect of the premium, to have been paid in the taxation year in which the transfer referred to in that paragraph was made and not in the taxation year in which it was actually paid.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 5.201 of section 146 of the Income Tax Act.

History: 2013, c. 10, s. 76.

Corresponding Federal Provision: 146(5.2) and (5.201).

923.1. (Repealed).

History: 1986, c. 15, s. 132; 1987, c. 67, s. 169.

923.2. (Repealed).

History: 1986, c. 15, s. 132; 1986, c. 19, s. 170; 1987, c. 67, s. 169.

923.2.1. (Repealed).

History: 1986, c. 19, s. 171; 1987, c. 67, s. 169.

923.3. (Repealed).

History: 1986, c. 15, s. 132; 1987, c. 67, s. 169.

923.4. (Repealed).

History: 1991, c. 25, s. 126; 1999, c. 83, s. 124.

Deductible amount.

923.5. An individual may deduct, in computing his income for a taxation year, the amount that, by virtue of subsection 6.1 of section 146 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: 1991, c. 25, s. 126.

Corresponding Federal Provision: 146(6.1).

Deductible amount.

924. An individual may deduct, in computing his income for a taxation year, the amount that, by virtue of subsection 8.2 of section 146 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: 1977, c. 26, s. 102; 1984, c. 15, s. 202; 1988, c. 18, s. 82; 1991, c. 25, s. 127.

Corresponding Federal Provision: 146(8.2).

Premium deemed not paid.

924.0.1. Where, at any time in a taxation year, an individual has received a payment from a registered retirement savings plan or a registered retirement income fund in respect of all or any portion of a premium paid by the individual to a registered retirement savings plan and the payment has been deducted in computing the income of the individual for the year under section 924, the premium or portion thereof, as the case may be, is deemed, for the purposes of sections 931.1 and 961.17.0.1, after that time, not to have been a premium paid by the individual to a registered retirement savings plan.

History: 1991, c. 25, s. 128.

Corresponding Federal Provision: 146(8.21).

Amount deductible in computing spouse's income.

924.1. Where, in respect of an amount required at any time in a taxation year to be included in computing the income of the spouse of an individual, all or part of a premium is, by virtue of section 931.1, included in computing the individual's income for the year, the following rules apply:

(a) the premium or part thereof, as the case may be, is deemed, for the purposes of sections 931.1 and 961.17.0.1, after that time, not to have been a premium paid to a registered retirement savings plan under which the individual's spouse is the annuitant;

(b) an amount equal to the premium or part thereof, as the case may be, may be deducted in computing the income of the spouse for the year.

History: 1988, c. 18, s. 82; 1991, c. 25, s. 129.

Corresponding Federal Provision: 146(8.6).

Deduction.

924.2. If an individual who is an annuitant under a registered retirement savings plan dies before the date provided for the first payment of benefits under the plan, there may be deducted in computing the individual's income for the taxation year in which the individual dies an amount not exceeding the amount determined, after all amounts payable under the plan have been paid, by the formula

$A - B.$

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is

i. the amount deemed by the first paragraph of section 915.2 to have been received by the individual as a benefit out of or under the plan,

ii. an amount (other than an amount described in subparagraph iii) received, after the death of the individual, by another individual as a benefit out of or under the plan and included under section 929 in computing the other individual's income, or

iii. a tax-paid amount in respect of the plan; and

(b) B is the aggregate of all amounts paid out of or under the plan after the death of the individual who is the annuitant.

History: 2010, c. 5, s. 90.

Corresponding Federal Provision: 146(8.92).

Conditional application of section 924.2

924.3. Unless the Minister has waived in writing the application of this section with respect to all or any portion of the amount determined in section 924.2, that section does not apply in respect of an individual who is an annuitant under a registered retirement savings plan if

(a) after the death of the individual, a trust governed by the plan held an investment that was a non-qualified investment for the purposes of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); or

(b) the last payment out of or under the plan was made after the end of the year following the year in which the individual died.

History: 2010, c. 5, s. 90.

Corresponding Federal Provision: 146(8.93).

925. (Repealed).

History: 1972, c. 23, s. 685; 1973, c. 17, s. 108; 1975, c. 21, s. 22; 1984, c. 15, s. 203; 1988, c. 18, s. 83; 1990, c. 7, s. 80; 1991, c. 25, s. 130.

926. (Repealed).

History: 1972, c. 23, s. 686; 1978, c. 26, s. 169; 1988, c. 18, s. 84; 1991, c. 25, s. 131; 2012, c. 8, s. 149.

927. (Repealed).

History: 1972, c. 23, s. 687; 1991, c. 25, s. 131; 2012, c. 8, s. 149.

Recovery of property used as security for loan.

928. (1) Where, in a taxation year, a loan for which a trust governed by a registered retirement savings plan has used or permitted to be used trust property as security ceases to be extant and the fair market value of the property so used was included, under section 933, in computing the income of

the individual who is the annuitant under the plan, the individual may deduct, in computing his income for the year, the amount by which the amount so included in computing his income in consequence of the trust's using or permitting to be used the property as security for the loan exceeds the net loss sustained by the trust in consequence of its using or permitting to be used the property as security for the loan.

Loss contemplated in subsection 1.

(2) The loss contemplated in subsection 1 does not however include payments made by the trust as interest or a change in the fair market value of the property.

History: 1972, c. 23, s. 688; 1991, c. 25, s. 132.

Corresponding Federal Provision: 146(7).

CHAPTER IV INCLUDED AMOUNTS

Benefits included in computing income.

929. An individual shall include in computing the individual's income for a taxation year an amount received by the individual in the year as a benefit out of or under a registered retirement savings plan, other than an amount included under section 914 in computing the individual's income and an excluded withdrawal, as defined in the first paragraph of section 935.1 or 935.12, in respect of the individual.

History: 1972, c. 23, s. 689; 1975, c. 22, s. 226; 1978, c. 26, s. 170; 1988, c. 18, s. 85; 1991, c. 25, s. 133; 1994, c. 22, s. 288; 2001, c. 53, s. 191.

Corresponding Federal Provision: 146(8).

Subsequent re-calculation.

929.1. Notwithstanding sections 1010 to 1011, if a designated withdrawal, as defined in the first paragraph of section 935.1, or an amount referred to in paragraph *a* of the definition of "eligible amount" in the first paragraph of section 935.12 is received by an individual in a taxation year and, at any time after that year, it is determined that the amount is not an excluded withdrawal, as defined in the first paragraph of section 935.1 or 935.12, such assessment, reassessment or additional assessment of tax, interest and penalties shall be made by the Minister as is necessary to give effect to the determination.

History: 1994, c. 22, s. 289; 2001, c. 53, s. 192.

Corresponding Federal Provision: 146(8.01).

Refund of premiums to succession.

930. If an amount paid out of or under a registered retirement savings plan is received by the legal representative of a deceased individual who was an annuitant under the plan and that amount would have been a refund of premiums had it been paid under the plan to an individual who is a beneficiary, within the meaning of the second paragraph of section 646, of the annuitant's succession, that amount is, to

the extent that it is so designated jointly by the legal representative and the individual in the prescribed form filed with the Minister, deemed to be received by the individual and not by the legal representative, at the time it is so received by the legal representative, as a benefit that is a refund of premiums.

History: 1973, c. 17, s. 109; 1980, c. 13, s. 86; 1988, c. 18, s. 85; 1998, c. 16, s. 251; 2001, c. 53, s. 193; 2009, c. 15, s. 169.

Corresponding Federal Provision: 146(8.1).

931. *(Repealed).*

History: 1973, c. 17, s. 109; 1980, c. 13, s. 87.

Amounts included in computing income.

931.1. Where, at any time in a taxation year, a particular amount in respect of a registered retirement savings plan that is a spousal plan in relation to an individual is required, by reason of section 914 or 929, to be included in computing the income of the individual's spouse before the date provided for the first payment of benefits under the plan or as a payment in full or partial commutation of a retirement income under the plan and the individual is not an individual who is living apart from his spouse at that time because of the breakdown of their marriage, the individual shall include at that time, in computing his income for the year, the lesser of the following amounts:

(a) the aggregate of all amounts each of which is a premium paid by him in the year or in one of the two preceding taxation years to a registered retirement savings plan under which his spouse was the annuitant at the time the premium was paid, and

(b) the particular amount.

History: 1978, c. 26, s. 171; 1986, c. 15, s. 133; 1986, c. 19, s. 172; 1988, c. 18, s. 86; 1991, c. 25, s. 134; 1995, c. 1, s. 95.

Corresponding Federal Provision: 146(8.3).

931.2. *(Repealed).*

History: 1978, c. 26, s. 171; 1988, c. 18, s. 86; 1991, c. 25, s. 135.

Ordering of premium payment.

931.3. Where an individual has paid more than one premium described in section 931.1, such a premium or part thereof paid by him at any time is deemed to have been included in computing his income by virtue of the said section before premiums or parts thereof paid by him after that time.

History: 1978, c. 26, s. 171; 1988, c. 18, s. 86.

Corresponding Federal Provision: 146(8.5).

931.4. *(Repealed).*

History: 1978, c. 26, s. 171; 1988, c. 18, s. 87.

Where s. 931.1 does not apply.

931.5. Section 931.1 does not apply

(a) in respect of an individual at any time during the year in which the individual dies;

(b) in respect of an individual where either the individual or his spouse is not resident in Canada at the time referred to in the said section;

(c) in respect of amounts paid out of or under a new plan referred to in section 914 to which the first paragraph of the said section applied before 26 May 1976;

(d) to any payment that is received in full or partial commutation of a registered retirement income fund or a registered retirement savings plan and in respect of which a deduction was made under paragraph *f* of section 339 if, where the deduction was in respect of the acquisition of an annuity, the terms thereof provide that it cannot be commuted, and it is not commuted, in whole or in part within three years after the acquisition thereof;

(e) in respect of an amount that is deemed, under the first paragraph of section 915.2, to have been received by an annuitant under a registered retirement savings plan immediately before his death.

History: 1978, c. 26, s. 171; 1988, c. 18, s. 88; 1991, c. 25, s. 136.

Corresponding Federal Provision: 146(8.7).

Insufficient consideration on disposition of property by trust.

932. (1) Where a trust governed by a registered retirement savings plan, in a taxation year, disposes of property for no consideration or for a consideration less than its fair market value at that time, the annuitant under the plan shall include in his income for the year the difference between that value and that consideration.

Purchase of property by trust.

(2) The rule provided in subsection 1 applies if the trust acquires a property for a consideration greater than its fair market value.

History: 1972, c. 23, s. 690.

Corresponding Federal Provision: 146(9).

Property used as security for loan.

933. If, at any time in a taxation year, a trust governed by a registered retirement savings plan uses or permits to be used any property of the trust as security for a loan, the individual who is an annuitant under the plan at that time shall include, in computing the individual's income for the year, the fair market value of the property at the time it commenced to be so used.

History: 1972, c. 23, s. 691; 1980, c. 13, s. 88; 1988, c. 18, s. 89; 1991, c. 25, s. 137; 2012, c. 8, s. 150.

Corresponding Federal Provision: 146(10).

CHAPTER V

(Repealed).

934. (Repealed).

History: 1972, c. 23, s. 692; 1972, c. 26, s. 67; 1975, c. 22, s. 227; 1982, c. 5, s. 158; 1991, c. 25, s. 138.

935. (Repealed).

History: 1972, c. 23, s. 693; 1988, c. 18, s. 90; 1991, c. 25, s. 138.

TITLE IV.1

HOME BUYERS' PLAN

CHAPTER I

INTERPRETATION AND GENERALITIES

Definitions:

935.1. In this Title,

“annuitant”;

“annuitant” has the meaning assigned by paragraph *b* of section 905.1;

“benefit”;

“benefit” has the meaning assigned by paragraph *a* of section 905.1;

“completion date”;

“completion date”, in respect of an amount received by an individual, means

(a) where the amount was received before 2 March 1993, 1 October 1993;

(b) where the amount was received after 1 March 1993 and before 2 March 1994, 1 October 1994; and

(c) in any other case, 1 October of the calendar year following the calendar year in which the amount was received;

“designated withdrawal”;

“designated withdrawal” of an individual is an amount received by the individual, as a benefit out of or under a registered retirement savings plan, pursuant to the individual's written request in the prescribed form referred to in paragraph *a* of the definition of “eligible amount” as that definition read in its application to amounts received before 1 January 1999, paragraph *a* of the definition of “regular eligible amount” or paragraph *a* of the definition of “supplemental eligible amount”;

“eligible amount”;

“eligible amount” of an individual means a regular eligible amount or supplemental eligible amount of the individual;

“excluded premium”;

“excluded premium” in respect of an individual means a premium under a registered retirement savings plan where the premium

(a) was designated by the individual for the purposes of paragraph *j*, *j.1*, *j.2* or *l* of section 60 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(b) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund or deferred profit sharing plan;

(c) was deductible under section 923.5 in computing the individual's income for any taxation year; or

(d) was deducted in computing the individual's income for the taxation year 1991;

“excluded withdrawal”;

“excluded withdrawal” of an individual means

(a) an eligible amount received by the individual;

(b) a particular amount, other than an eligible amount, received while the individual was resident in Canada and in a calendar year if

i. the particular amount would be an eligible amount of the individual if the definition of “regular eligible amount” were read without reference to paragraphs *c* and *g* thereof and the definition of “supplemental eligible amount” were read without reference to paragraphs *d* and *f* thereof,

ii. a payment, other than an excluded premium, equal to the particular amount is made by the individual under a retirement savings plan that is, at the end of the taxation year of the payment, a registered retirement savings plan under which the individual is the annuitant,

iii. the payment is made before the particular time that is

(1) if the individual was not resident in Canada at the time the individual filed a fiscal return for the taxation year in which the particular amount was received, the earlier of the end of the following calendar year and the time at which the individual filed the fiscal return,

(2) where subparagraph 1 does not apply and the particular amount would, if subparagraph 1 of subparagraph ii of subparagraph *c* of the first paragraph of section 935.2 were read without the words “and the individual or the specified disabled person acquires the qualifying home or a replacement property for the qualifying home before the day that is one year after that completion date”, be an eligible amount, the end of the second following calendar year, and

(3) in any other case, the end of the following calendar year, and

iv. either

(1) if the particular time is before 1 January 2000, the payment is made, as a repayment of the particular amount, to the issuer of a registered retirement savings plan from which the particular amount was received, no other payment is

made as a repayment of the particular amount and that issuer is notified of the payment in a prescribed form submitted to the issuer at the time the payment is made, or

(2) the payment is made after 31 December 1999 and before the particular time and the payment, and no other payment, is designated under this subparagraph as a repayment of the particular amount in a prescribed form filed with the Minister on or before the particular time or before such later time as is acceptable to the Minister; or

(c) an amount, other than an eligible amount, that is received in a calendar year before the calendar year 1999 and that would be an eligible amount of the individual if the definition of “eligible amount”, as it applied to amounts received before 1 January 1999, were read without reference to paragraphs *c* and *e* thereof, where the individual

i. died before the end of the following calendar year, and

ii. was resident in Canada throughout the period that began immediately after the amount was received and ended at the time of the death;

“issuer”;

“issuer” has the meaning assigned by paragraph *c* of section 905.1;

“participation period”;

“participation period” of an individual means each period that begins at the beginning of a calendar year in which the individual receives an eligible amount 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;

“premium”;

“premium” has the meaning assigned by paragraph *e* of section 905.1;

“qualifying home”;

“qualifying home” means

(a) a housing unit located in Canada; or

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

“regular eligible amount”;

“regular eligible amount” of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan if

(a) the amount is received pursuant to the individual's written request in a prescribed form in which the individual sets out the location of a qualifying home that the individual has begun, or intends not later than one year after its acquisition by the individual to begin, using as a principal place of residence;

(b) the individual entered into an agreement in writing before the particular time for the acquisition of the qualifying home or with respect to its construction;

(c) the individual acquires the qualifying home or a replacement property for the qualifying home before the completion date in respect of the amount received by the individual, or dies before the end of the calendar year that includes the completion date in respect of the amount;

(d) neither the individual nor the individual's spouse acquired the qualifying home more than 30 days before the particular time;

(e) the individual did not have an owner-occupied home in the period that began on the first day of the fourth preceding calendar year that included the particular time, and that ended on the 31st day before the particular time;

(f) the individual's spouse did not, in the period referred to in paragraph e, have an owner-occupied home that was inhabited by the individual during the spouse's marriage to the individual, or that was a share of the capital stock of a housing cooperative that relates to a housing unit inhabited by the individual during the spouse's marriage to the individual;

(g) the individual

i. acquired the qualifying home before the particular time and is resident in Canada at the particular time, or

ii. is resident in Canada throughout the period that begins at the particular time and ends at the earlier of the time of the individual's death and the earliest time at which the individual acquires the qualifying home or a replacement property for the qualifying home;

(h) the aggregate of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed \$25,000; and

(i) the individual's specified balance at the beginning of the calendar year that includes the particular time is nil;

“replacement property”;

“replacement property” for a particular qualifying home in respect of an individual, or of a specified disabled person in respect of the individual, means another qualifying home that

(a) the individual or the specified disabled person agrees to acquire, or begins the construction of, at a particular time that is after the latest time that the individual made a request described in the definition of “designated withdrawal” in respect of the particular qualifying home;

(b) at the particular time, the individual intends to be used by the individual or the specified disabled person as a principal place of residence not later than one year after its acquisition; and

(c) none of the individual, the individual's spouse, the specified disabled person or that person's spouse had acquired before the particular time;

“specified balance”;

“specified balance” of an individual at any time means the amount by which the aggregate of all eligible amounts

received by the individual at or before that time exceeds the aggregate of all amounts designated under section 935.3 by the individual for taxation years that ended before that time, and all amounts each of which is included under sections 935.4 and 935.5 in computing the individual's income for a taxation year that ended before that time;

“specified disabled person”;

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

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

(b) would be entitled to a deduction under subsection 1 of section 118.3 of the Income Tax Act in computing the person's tax payable under Part I of this Act for the person's taxation year that includes that time if that subsection were read without reference to its paragraph c;

“supplemental eligible amount”.

“supplemental eligible amount” of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan if

(a) the amount is received pursuant to the individual's written request in a prescribed form identifying a specified disabled person in respect of the individual and setting out the location of a qualifying home that has begun to be used by that person as a principal place of residence, or that the individual intends to be used by that person as a principal place of residence not later than one year after its first acquisition after the particular time;

(b) the purpose of receiving the amount is to enable the specified disabled person to live in a dwelling that is more accessible by that person or in which that person is more mobile or functional, or in an environment better suited to the personal needs and care of that person;

(c) the individual or the specified disabled person entered into an agreement in writing before the particular time for the acquisition of the qualifying home or with respect to its construction;

(d) either

i. the individual or the specified disabled person acquires a qualifying home or a replacement property for the qualifying home after 31 December 1998 and before the completion date in respect of the amount received by the individual, or

ii. the individual dies before the end of the calendar year that includes the completion date in respect of the amount received by the individual;

(e) none of the individual, the spouse of the individual, the specified disabled person or the spouse of that person acquired the qualifying home more than 30 days before the particular time;

(f) either

i. the individual or the specified disabled person acquired the qualifying home before the particular time and the individual is resident in Canada at the particular time, or

ii. the individual is resident in Canada throughout the period that begins at the particular time and ends at the earlier of the time of the individual's death and the earliest time at which the individual or the specified disabled person acquires the qualifying home or a replacement property for the qualifying home;

(g) the aggregate of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed \$25,000; and

(h) the individual's specified balance at the beginning of the calendar year that includes the particular time is nil.

Qualifying home.

In this Title, a reference to a qualifying home that is a share described in paragraph *b* of the definition of "qualifying home" in the first paragraph means, where the context so requires, the housing unit to which that share relates.

History: 1994, c. 22, s. 290; 1995, c. 49, s. 203; 1996, c. 39, s. 237; 1997, c. 3, s. 71; 1997, c. 85, s. 330; 2000, c. 5, s. 212; 2001, c. 53, s. 194; 2009, c. 5, s. 383; 2010, c. 5, s. 91; 2012, c. 8, s. 151; 2013, c. 10, s. 77.

Corresponding Federal Provision: 146.01(1) and 146(1).

Rules applicable.

935.2. For the purposes of this Title,

(a) an individual is deemed to have acquired a qualifying home if the individual acquired it jointly with one or more other persons;

(a.1) an individual is deemed to have an owner-occupied home at any time where, at that time, the individual owns, whether jointly with another person or otherwise, a housing unit or a share of the capital stock of a housing cooperative and the housing unit is inhabited by the individual as the individual's principal place of residence at that time, or the share was acquired for the purpose of acquiring a right to possess a housing unit owned by the cooperative and that unit is inhabited by the individual as the individual's principal place of residence at that time;

(b) where an individual agrees to acquire a housing unit held in co-ownership, the individual is deemed to have acquired it on the day the individual is entitled to take possession of it;

(c) except for the purposes of subparagraph ii of paragraph *g* of the definition of "regular eligible amount" in the first paragraph of section 935.1 and of subparagraph ii of paragraph *f* of the definition of "supplemental eligible amount" in that paragraph, an individual or a specified disabled person in respect of the individual is deemed to have

acquired, before the completion date in respect of a designated withdrawal received by the individual, the qualifying home in respect of which the designated withdrawal was received if

i. neither a qualifying home nor a replacement property for the qualifying home was acquired by the individual or the specified disabled person before that completion date, and

ii. either

(1) the individual or the specified disabled person is obliged under the terms of a written agreement in effect on that completion date to acquire the qualifying home, or a replacement property for the qualifying home, on or after that date, and the individual or the specified disabled person acquires the qualifying home or a replacement property for the qualifying home before the day that is one year after that completion date, or

(2) the individual or the specified disabled person made payments to persons with whom the individual was dealing at arm's length, in the period described in the second paragraph, in respect of the construction of the qualifying home or a replacement property for the qualifying home, and the aggregate of all payments so made was not less than the aggregate of all designated withdrawals that were received by the individual in respect of the qualifying home;

(d) *(subparagraph repealed)*;

(e) *(subparagraph repealed)*;

(f) an amount received by an individual in a particular calendar year is deemed to have been received by the individual at the end of the preceding calendar year and not at any other time if

i. the amount is received in January of the particular year or at such later time as is acceptable to the Minister,

ii. the amount would not be an eligible amount if this Title were read without reference to this paragraph, and

iii. the amount would be an eligible amount if the definition of "regular eligible amount" in the first paragraph of section 935.1 were read without reference to subparagraph i thereof and the definition of "supplemental eligible amount" in that paragraph were read without reference to paragraph *h* thereof.

Interpretation.

The period to which subparagraph 2 of subparagraph ii of subparagraph *c* of the first paragraph refers is the period that begins at the time the individual first benefited from a designated withdrawal in respect of the qualifying home and

that ends before the completion date in respect of the designated withdrawal.

History: 1994, c. 22, s. 290; 1995, c. 49, s. 204; 1996, c. 39, s. 238; 1997, c. 3, s. 71; 1997, c. 85, s. 330; 2000, c. 5, s. 213; 2001, c. 53, s. 195.

Corresponding Federal Provision: 146.01(2).

CHAPTER II REPAYMENTS OF ELIGIBLE AMOUNTS AND AMOUNTS TO BE INCLUDED

Repayment of an eligible amount.

935.3. An individual may designate a single amount for a taxation year in a prescribed form filed with the fiscal return the individual is required to file under section 1000 for the year, if the amount does not exceed the lesser of

(a) the aggregate of all amounts, other than excluded premiums, repayments to which paragraph *b* of the definition of "excluded withdrawal" in the first paragraph of section 935.1 applies and amounts paid by the individual in the first 60 days of the year that can reasonably be considered to have been deducted in computing the individual's income, or designated under this section, for the preceding taxation year, paid by the individual in the year or within 60 days after the end of the year under a retirement savings plan that is at the end of the year or the following taxation year a registered retirement savings plan under which the individual is the annuitant; and

(b) the amount by which

i. the aggregate of all eligible amounts received by the individual before the end of the year exceeds

ii. the aggregate of

(1) all amounts designated by the individual under this section for preceding taxation years, and

(2) all amounts each of which is an amount included in computing the income of the individual under section 935.4 or 935.5 for a preceding taxation year.

History: 1994, c. 22, s. 290; 1996, c. 39, s. 239; 1997, c. 31, s. 88; 2001, c. 53, s. 196.

Corresponding Federal Provision: 146.01(3).

Where a portion of an eligible amount is not repaid.

935.4. An individual shall include in computing the income of the individual for a particular taxation year included in a particular participation period of the individual the amount determined by the formula

$$[(A - B - C) / (15 - D)] - E.$$

Interpretation.

For the purposes of the formula 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 year, or

(2) the completion date in respect of an eligible amount received by the individual was in the particular year; and

ii. in any other case, the aggregate of all eligible amounts received by the individual in preceding taxation years included in the particular participation period;

(b) B is

i. if the completion date in respect of an eligible amount received by the individual was in the preceding taxation year, an amount equal to zero, and

ii. in any other case, the aggregate of all amounts each of which is designated under section 935.3 by the individual for a preceding taxation year included in the particular participation period;

(c) C is the aggregate of all amounts each of which is an amount included under this section or section 935.5 in computing the income of the individual for a preceding taxation year included in the particular participation period;

(d) D is the lesser of 14 and the number of taxation years of the individual ending in the period beginning on the following dates and ending at the beginning of the particular year:

i. where the completion date in respect of an eligible amount received by the individual was before 1 January 1995, 1 January 1995, and

ii. in any other case, 1 January of the first calendar year beginning after the completion date in respect of an eligible amount received by the individual; and

(e) E is

i. *(subparagraph repealed)*;

ii. if the completion date in respect of an eligible amount received by the individual was in the preceding taxation year, the aggregate of all amounts each of which is designated under section 935.3 by the individual for the particular year or a preceding taxation year included in the particular participation period, and

iii. in any other case, the amount designated under section 935.3 by the individual for the particular year.

History: 1994, c. 22, s. 290; 1995, c. 49, s. 205; 1996, c. 39, s. 240; 2001, c. 53, s. 197.

Corresponding Federal Provision: 146.01(4).

Where an individual ceases to be resident in Canada.

935.5. If at a particular time in a taxation year an individual ceases to be resident in Canada, the individual shall include in computing the income of the individual for the period in the year during which the individual was resident in Canada the amount by which the aggregate of all amounts each of which is an eligible amount received by the individual in the year or a preceding taxation year exceeds the amount determined under the second paragraph.

Amount determined.

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

(a) all amounts designated under section 935.3 by the individual in respect of amounts paid not later than 60 days after the particular time and before the individual files a fiscal return for the year; and

(b) all amounts included under section 935.4 or this section in computing the income of the individual for preceding taxation years.

History: 1994, c. 22, s. 290; 1996, c. 39, s. 241; 2001, c. 53, s. 198.

Corresponding Federal Provision: 146.01(5).

Where an individual dies.

935.6. If an individual dies at a particular time in a taxation year, there shall be included in computing the income of the individual for the year the amount by which the individual's specified balance immediately before that time exceeds the amount designated under section 935.3 by the individual for the year.

History: 1994, c. 22, s. 290; 2001, c. 53, s. 199.

Corresponding Federal Provision: 146.01(6).

Spouse of a deceased individual.

935.7. If a spouse of an individual 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 935.6 does not apply in respect of the individual,

(b) the spouse is deemed to have received a particular eligible amount at the particular time equal to the amount that, but for this section, would be determined under section 935.6 in respect of the individual;

(c) for the purposes of section 935.4 and paragraph *d*, the completion date in respect of the particular amount is deemed to be

i. if the spouse received an eligible amount before the death, other than an eligible amount received in a participation period of the spouse that ended before the beginning of the year, the completion date in respect of that amount, and

ii. in any other case, the completion date in respect of the last eligible amount received by the individual; and

(d) for the purposes of section 935.4, the completion date in respect of each eligible amount received by 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 amount.

History: 1994, c. 22, s. 290; 1995, c. 49, s. 206; 1996, c. 39, s. 242; 2001, c. 53, s. 200.

Corresponding Federal Provision: 146.01(7).

935.8. (Repealed).

History: 1994, c. 22, s. 290; 2009, c. 5, s. 384.

Amount paid as a premium

935.8.1. Where an amount, other than an amount paid in the first 60 days of a taxation year, is paid as a premium by an individual in the year and the Minister so directs, the following rules apply:

(a) all or part of the amount may be designated in writing by the individual for the purposes of section 935.3 and, to that end, the amount is deemed to have been paid at the beginning of the year and not at the time it was actually paid; and

(b) the designation of all or part of that amount is deemed to have been made in the prescribed form the individual is required to send with the fiscal return the individual is required to file under section 1000 for the preceding taxation year.

History: 2003, c. 2, s. 255.

Corresponding Federal Provision: 146(22).

CHAPTER III

(Repealed).

935.9. (Repealed).

History: 1994, c. 22, s. 290; 1995, c. 49, s. 208; 1996, c. 39, s. 243.

935.10. (Repealed).

History: 1994, c. 22, s. 290; 1995, c. 49, s. 209; 1996, c. 39, s. 243.

935.10.1. (Repealed).

History: 1995, c. 49, s. 210; 1996, c. 39, s. 243.

935.10.2. *(Repealed).*

History: 1995, c. 49, s. 210; 1996, c. 39, s. 243.

935.11. *(Repealed).*

History: 1994, c. 22, s. 290; 1995, c. 49, s. 211; 1996, c. 39, s. 243.

TITLE IV.2**LIFELONG LEARNING INCENTIVE PLAN****CHAPTER I****INTERPRETATION AND GENERAL****Definitions:****935.12.** In this Title,**“annuitant”;**

“annuitant” has the meaning assigned by paragraph *b* of section 905.1;

“benefit”;

“benefit” has the meaning assigned by paragraph *a* of section 905.1;

“eligible amount”;

“eligible amount” of an individual means a particular amount received at a particular time in a calendar year by the individual as a benefit out of or under a registered retirement savings plan if

(a) the particular amount is received after 31 December 1998 pursuant to the individual’s written request in a prescribed form;

(b) in respect of the particular amount, the individual designates in the form prescribed a person, in this definition referred to as the “designated person”, who is the individual or the individual’s spouse;

(c) the aggregate of the eligible amount and all other eligible amounts received by the individual at or before the particular time and in the year does not exceed \$10,000;

(d) the aggregate of the particular amount and all other eligible amounts received by the individual at or before the particular time, other than amounts received in participation periods of the individual that ended before the year, does not exceed \$20,000;

(e) the individual did not receive an eligible amount at or before the particular time in respect of which someone other than the designated person was designated, other than an amount received in a participation period of the individual that ended before the year;

(f) the designated person is enrolled at the particular time as a full-time student in a qualifying educational program or has received written notification before the particular time that the designated person is absolutely or contingently entitled to enroll before March of the following year as a full-time student in a qualifying educational program;

(g) the individual is resident in Canada throughout the period that begins at the particular time and ends

immediately before the earlier of the beginning of the following year and the time of the individual’s death;

(h) except where the individual dies after the particular time and before April of the following year, the designated person is enrolled as a full-time student in a qualifying educational program after the particular time and before March of the following year and

i. the designated person completes the qualifying educational program before April of the following year,

ii. the designated person does not withdraw from the qualifying educational program before April of the following year, or

iii. less than 75% of the tuition paid, after the beginning of the year and before April of the following year, in respect of the designated person and the qualifying educational program is refundable; and

(i) if an eligible amount was received by the individual before the year, the particular time is neither

i. in the individual’s repayment period for the individual’s participation period that includes the particular time, nor

ii. after January, or a later month where the Minister so permits, of the fifth calendar year of the individual’s participation period that includes the particular time;

“excluded premium”;

“excluded premium” of an individual means a premium that

(a) was designated by the individual for the purposes of paragraph *j*, *j.1* or *l* of section 60 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or for the purposes of section 935.3;

(b) was a repayment to which paragraph *b* of the definition of “excluded withdrawal” in the first paragraph of section 935.1 applies;

(c) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund or deferred profit sharing plan; or

(d) was deductible under section 923.5 in computing the individual’s income for any taxation year;

“excluded withdrawal”;

“excluded withdrawal” of an individual means

(a) an eligible amount received by the individual; or

(b) a particular amount, other than an eligible amount, received while the individual was resident in Canada and in a calendar year if

i. the particular amount would be an eligible amount of the individual if the definition of “eligible amount” were read without reference to paragraphs *g* and *h* of that definition,

ii. a payment, other than an excluded premium, equal to the particular amount is made by the individual under a retirement savings plan that is, at the end of the taxation year of the payment, a registered retirement savings plan under which the individual is the annuitant,

iii. the payment is made before the particular time that is,

(1) if the individual was not resident in Canada at the time the individual filed a fiscal return for the taxation year in which the particular amount was received, the earlier of the end of the following calendar year and the time at which the individual filed the fiscal return, and

(2) in any other case, the end of the following calendar year, and

iv. the payment, and no other payment, is designated under this subparagraph as a repayment of the particular amount in a prescribed form filed with the Minister on or before the particular time or before such later time as is acceptable to the Minister;

“participation period”;

“participation period” of an individual means each period that begins at the beginning of a calendar year in which the individual receives an eligible amount 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;

“premium”;

“premium” has the meaning assigned by paragraph *e* of section 905.1;

“qualifying educational program”;

“qualifying educational program” means a qualifying educational program within the meaning assigned by subsection 1 of section 146.02 of the Income Tax Act;

“repayment period”;

“repayment period” of an individual for a participation period of the individual in respect of a person designated under paragraph *b* of the definition of “eligible amount” means the period within the participation period that begins at one of the times referred to in subparagraphs i to iv of paragraph *a* of the definition of “repayment period” in subsection 1 of section 146.02 of the Income Tax Act and that ends at the end of the participation period;

“specified balance”.

“specified balance” of an individual at any time means the amount by which the aggregate of all eligible amounts received by the individual at or before that time exceeds the aggregate of all amounts designated under section 935.14 by the individual for taxation years that ended before that time, and all amounts each of which is included under section 935.15 or 935.16 in computing the individual’s income for a taxation year that ended before that time.

Full-time student.

In this Title, a full-time student in a taxation year includes an individual to whom subsection 3 of section 118.6 of the Income Tax Act applies for the purpose of computing tax payable under Part I of that Act for the year or the following taxation year.

History: 2001, c. 53, s. 201; 2013, c. 10, s. 78.

Corresponding Federal Provision: 146.02(1) and 146(1).

Rules applicable.

935.13. For the purposes of the definition of “eligible amount” in the first paragraph of section 935.12, a particular person is deemed to be the only person in respect of whom a particular amount was designated under paragraph *b* of that definition if

(a) an individual received the particular amount;

(b) the individual files a prescribed form with the Minister in which the particular person is specified in connection with the receipt of the particular amount;

(c) the particular amount would be an eligible amount of the individual if that definition were read without reference to paragraphs *b* and *e* of that definition and paragraphs *f* and *h* of that definition were read as follows:

“(f) the individual or the individual’s spouse, as the case may be, is enrolled at the particular time as a full-time student in a qualifying educational program or has received written notification before the particular time that the individual or the individual’s spouse, as the case may be, is absolutely or contingently entitled to enroll before March of the following year as a full-time student in a qualifying educational program;”;

“(h) except where the individual dies after the particular time and before April of the following year, the individual or the individual’s spouse, as the case may be, is enrolled as a full-time student in a qualifying educational program after the particular time and before March of the following year and

i. the individual or the individual’s spouse, as the case may be, completes the qualifying educational program before April of the following year,

ii. the individual or the individual’s spouse, as the case may be, does not withdraw from the qualifying educational program before April of the following year, or

iii. less than 75% of the tuition paid, after the beginning of the year and before April of the following year, in respect of the individual or the individual’s spouse, as the case may be, and the qualifying educational program is refundable; and”;

(d) the Minister so permits.

History: 2001, c. 53, s. 201.

Corresponding Federal Provision: 146.02(2).

CHAPTER II

REPAYMENT OF ELIGIBLE AMOUNTS AND AMOUNTS TO BE INCLUDED

Repayment of eligible amounts.

935.14. An individual may designate a single amount for a taxation year in a prescribed form filed with the fiscal return the individual is required to file under section 1000 for the year, if the amount does not exceed the lesser of

(a) the aggregate of all amounts, other than excluded premiums, repayments to which paragraph *b* of the definition of "excluded withdrawal" in the first paragraph of section 935.12 applies and amounts paid by the individual in the first 60 days of the year that can reasonably be considered to have been deducted in computing the individual's income, or designated under this section, for the preceding taxation year, paid by the individual in the year or within 60 days after the end of the year under a retirement savings plan that is at the end of the year or the following taxation year a registered retirement savings plan under which the individual is the annuitant; and

(b) the individual's specified balance at the end of the year.

History: 2001, c. 53, s. 201.

Corresponding Federal Provision: 146.02(3).

Eligible amount not repaid.

935.15. An individual shall in computing the individual's income for a particular taxation year that begins after 31 December 2000 include the amount determined by the formula

$$[(A - B - C) / (10 - D)] - E.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. nil, if

(1) the individual died or ceased to be resident in Canada at the particular year, or

(2) the beginning of the particular year is not included in a repayment period of the individual, and

ii. in any other case, the aggregate of all eligible amounts received by the individual in preceding taxation years, other than taxation years in participation periods of the individual that ended before the particular year;

(b) B is

i. nil, if the particular year is the first taxation year in a repayment period of the individual, and

ii. in any other case, the aggregate of all amounts designated under section 935.14 by the individual for preceding taxation years, other than taxation years in participation periods of the individual that ended before the particular year;

(c) C is the aggregate of all amounts each of which is included under this section or section 935.16 in computing the individual's income for a preceding taxation year, other than a taxation year included in a participation period of the individual that ended before the particular year;

(d) D 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 individual's last repayment period that began at or before the beginning of the particular year and ends at the beginning of the particular year; and

(e) E is

i. if the particular year is the first taxation year within a repayment period of the individual, the aggregate of the amount designated under section 935.14 by the individual for the particular year and all amounts so designated for preceding taxation years, other than taxation years in participation periods of the individual that ended before the particular year, and

ii. in any other case, the amount designated under section 935.14 by the individual for the particular year.

History: 2001, c. 53, s. 201.

Corresponding Federal Provision: 146.02(4).

Where an individual ceases to be resident in Canada.

935.16. If at any time in a taxation year an individual ceases to be resident in Canada, the individual shall include in computing the income of the individual for the period in the year during which the individual was resident in Canada the amount by which the aggregate of all amounts each of which is an eligible amount received by the individual in the year or a preceding taxation year exceeds the amount determined under the second paragraph.

Amount determined.

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

(a) all amounts designated under section 935.14 by the individual in respect of an amount paid not later than 60 days after that time and before the individual files a fiscal return for the year; and

(b) all amounts included under section 935.15 or this section in computing the income of the individual for a preceding taxation year.

History: 2001, c. 53, s. 201.

Corresponding Federal Provision: 146.02(5).

Where an individual dies.

935.17. If an individual dies at any time in a taxation year, there shall be included in computing the income of the individual for the year the amount by which the individual's specified balance immediately before that time exceeds the amount designated under section 935.14 by the individual for the year.

History: 2001, c. 53, s. 201.

Corresponding Federal Provision: 146.02(6).

Spouse of a deceased individual.

935.18. If a spouse of an individual 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 representatives jointly so elect in writing in the individual's fiscal return filed under this Part for the year, the following rules apply:

(a) section 935.17 does not apply to the individual;

(b) the spouse is deemed to have received a particular eligible amount at the particular time equal to the amount that, but for this section, would be determined under section 935.17 in respect of the individual;

(c) subject to paragraph *d*, for the purpose of applying this Title after the particular time, the spouse is deemed to be the person designated under paragraph *b* of the definition of "eligible amount" in the first paragraph of section 935.12 in respect of the particular amount; and

(d) where the spouse received an eligible amount before the particular time in the spouse's participation period that included the particular time and the particular individual designated under paragraph *b* of the definition of "eligible amount" in the first paragraph of section 935.12 in respect of that eligible amount was not the spouse, for the purpose of applying this Title after the particular time the particular individual is deemed to be the person designated under that paragraph in respect of the particular amount.

History: 2001, c. 53, s. 201.

Corresponding Federal Provision: 146.02(7).

Amount paid as a premium.

935.19. Where an amount, other than an amount paid in the first 60 days of a taxation year, is paid as a premium by an individual in the year and the Minister so directs, the following rules apply:

(a) all or part of the amount may be designated in writing by the individual for the purposes of section 935.14 and, to that end, the amount is deemed to have been paid at the beginning of the year and not at the time it was actually paid; and

(b) the designation of all or part of that amount is deemed to have been made in the prescribed form the individual is required to send with the fiscal return the individual is required to file under section 1000 for the preceding taxation year.

History: 2003, c. 2, s. 256.

Corresponding Federal Provision: 146(22).

TITLE IV.3

TAX-FREE SAVINGS ACCOUNTS

CHAPTER I DEFINITION

Interpretation.

935.20. In this Title, "holder" has the meaning assigned by subsection 1 of section 146.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2009, c. 15, s. 170.

Corresponding Federal Provision: 146.2(1) "holder".

CHAPTER II TAX

Trust not taxable.

935.21. No tax is payable under this Part by a trust that is governed by a tax-free savings account on its taxable income for a taxation year.

History: 2009, c. 15, s. 170.

Corresponding Federal Provision: 146.2(6) before (a) (part).

Exception in case of business.

935.22. Despite section 935.21, a trust governed by a tax-free savings account that carries on a business in a taxation year shall pay tax under this Part on the amount that would be its taxable income for the year if it had no incomes or losses from sources other than that business.

History: 2009, c. 15, s. 170.

Corresponding Federal Provision: 146.2(6) before (a) (part).

Exception in case of non-qualified investment.

935.23. Despite section 935.21, a trust governed by a tax-free savings account that holds, in a taxation year, a property that is a non-qualified investment (for the purposes of Part XI.01 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)) for the trust, shall pay tax under this Part on the amount that would be its

taxable income for the year if it had no incomes or losses from sources other than such investments and no capital gains or capital losses other than from the disposition of such investments.

History: 2009, c. 15, s. 170; 2012, c. 8, s. 152.

Corresponding Federal Provision: 146.2(6).

Rules of application.

935.24. For the purposes of sections 935.22 and 935.23, the following rules apply:

(a) a trust's income includes a dividend described in sections 501 to 503;

(b) the trust's taxable capital gain or allowable capital loss from the disposition of a property is equal to its capital gain or capital loss, as the case may be, from the disposition; and

(c) a trust's income is computed without reference to paragraph *a* of section 657.

History: 2009, c. 15, s. 170; 2011, c. 6, s. 182.

Corresponding Federal Provision: 146.2(6)(a) to (c).

Amount credited or added to a deposit.

935.25. An amount that is credited or added to a deposit that is a tax-free savings account as interest or other income in respect of the account is deemed not to be received by the holder of the account solely because of that crediting or adding.

History: 2009, c. 15, s. 170.

Corresponding Federal Provision: 146.2(7).

CHAPTER III SPECIAL PROVISIONS

Arrangement.

935.26. If an arrangement that governs a trust ceases, at a particular time, to be a tax-free savings account, the following rules apply:

(a) the trust is deemed to have disposed, immediately before the particular time, of each property held by the trust for proceeds of disposition equal to the property's fair market value immediately before the particular time and to have acquired, at the particular time, each such property at a cost equal to that fair market value;

(b) the trust's last taxation year that began before the particular time is deemed to have ended immediately before the particular time; and

(c) a taxation year of the trust is deemed to begin at the particular time.

History: 2009, c. 15, s. 170.

Corresponding Federal Provision: 146.2(8).

Trust ceasing to be a tax-free savings account because of the death of the holder.

935.26.1. If an arrangement that governs a trust ceases to be a tax-free savings account because of the death of the holder of the tax-free savings account, the following rules apply:

(a) the arrangement is deemed, for the purposes of the third paragraph of section 647, sections 935.21 to 935.24 and 935.26 and paragraph *h.1* of section 998, to continue to be a tax-free savings account until, and to cease to be a tax-free savings account immediately after, the exemption-end time;

(b) there must be included in computing a taxpayer's income for a taxation year the aggregate of all amounts each of which is an amount determined by the formula

$A - B$; and

(c) there must be included in computing the trust's income for its first taxation year, if any, that begins after the exemption-end time the amount determined by the formula

$C - D$.

Interpretation.

In the formulas in subparagraphs *b* and *c* of the first paragraph,

(a) *A* is the amount of a payment made out of or under the trust, in satisfaction of all or part of the taxpayer's beneficial interest in the trust, in the taxation year, after the holder's death and at or before the exemption-end time;

(b) *B* is an amount designated by the trust not exceeding the lesser of

i. the amount of the payment, and

ii. the amount by which the fair market value of all of the property held by the trust immediately before the holder's death exceeds the aggregate of all amounts each of which is an amount determined under this subparagraph *b* in respect of any other payment made out of or under the trust;

(c) *C* is the fair market value of all of the property held by the trust at the exemption-end time; and

(d) *D* is the amount by which the fair market value of all of the property held by the trust immediately before the holder's death exceeds the aggregate of all amounts each of which is an amount determined under subparagraph *b* in respect of a payment made out of or under the trust.

Meaning of "exemption-end time".

For the purposes of this section, the exemption-end time is the earlier of

- (a) the time at which the trust ceases to exist; and
- (b) the end of the first calendar year that begins after the holder dies.

History: 2010, c. 5, s. 92.

Corresponding Federal Provision: 146.2(9).

Annuity contract.

935.27. If an annuity contract ceases, at a particular time, to be a tax-free savings account, the following rules apply:

- (a) the holder of the tax-free savings account is deemed to have disposed of the contract immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time;
- (b) the contract is deemed to be a separate annuity contract issued and effected at the particular time otherwise than pursuant to or as a tax-free savings account; and
- (c) each person who has a right in the separate annuity contract at the particular time is deemed to acquire the right at the particular time at a cost equal to its fair market value at the particular time.

History: 2009, c. 15, s. 170; 2020, c. 16, s. 140.

Corresponding Federal Provision: 146.2(10).

Deposit.

935.28. If a deposit ceases, at a particular time, to be a tax-free savings account, the following rules apply:

- (a) the holder of the tax-free savings account is deemed to have disposed of the deposit immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time; and
- (b) each person who has a right in the deposit at the particular time is deemed to acquire the right at the particular time at a cost equal to its fair market value at the particular time.

History: 2009, c. 15, s. 170; 2020, c. 16, s. 141.

Corresponding Federal Provision: 146.2(11).

Exclusions.

935.29. An arrangement that is a qualifying arrangement, as defined in subsection 1 of section 146.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), is deemed not to be a retirement savings plan, an education savings plan, a retirement income fund or a disability savings plan.

History: 2009, c. 15, s. 170.

Corresponding Federal Provision: 146.2(12).

TITLE V *(Repealed).*

CHAPTER I *(Repealed).*

936. *(Repealed).*

History: 1975, c. 21, s. 23; 1987, c. 67, s. 170; 2005, c. 23, s. 123.

937. *(Repealed).*

History: 1975, c. 21, s. 23; 1982, c. 5, s. 159; 1997, c. 3, s. 71; 2005, c. 23, s. 123.

938. *(Repealed).*

History: 1975, c. 21, s. 23; 1982, c. 5, s. 160; 1984, c. 15, s. 204; 2005, c. 23, s. 123.

939. *(Repealed).*

History: 1975, c. 21, s. 23; 1978, c. 26, s. 172; 1982, c. 5, s. 161; 1997, c. 3, s. 71; 2005, c. 23, s. 123.

940. *(Repealed).*

History: 1977, c. 26, s. 103; 1982, c. 5, s. 162; 2005, c. 23, s. 123.

941. *(Repealed).*

History: 1977, c. 26, s. 103; 1980, c. 13, s. 89; 1997, c. 3, s. 71; 2005, c. 23, s. 123.

941.1. *(Repealed).*

History: 1982, c. 5, s. 163; 1997, c. 14, s. 152; 2005, c. 23, s. 123.

942. *(Repealed).*

History: 1977, c. 26, s. 103; 1978, c. 26, s. 173; 2005, c. 23, s. 123.

943. *(Repealed).*

History: 1975, c. 21, s. 23; 1997, c. 3, s. 71; 1997, c. 85, s. 201; 2000, c. 5, s. 214; 2005, c. 23, s. 123.

943.1. *(Repealed).*

History: 1982, c. 56, s. 16; 1997, c. 3, s. 71; 1997, c. 85, s. 202.

943.2. *(Repealed).*

History: 1983, c. 44, s. 31; 1984, c. 35, s. 17; 1997, c. 3, s. 71; 1997, c. 85, s. 202.

CHAPTER II *(Repealed).*

944. *(Repealed).*

History: 1975, c. 21, s. 23; 1977, c. 26, s. 104; 1978, c. 26, s. 174; 1982, c. 5, s. 164; 1982, c. 56, s. 17; 1984, c. 15, s. 205; 1987, c. 67, s. 171; 2005, c. 23, s. 123.

944.1. *(Repealed).*

History: 1983, c. 44, s. 32; 2005, c. 23, s. 123.

944.2. *(Repealed).*

History: 1990, c. 7, s. 81; 1991, c. 8, s. 55; 2005, c. 23, s. 123.

944.3. *(Repealed).*

History: 1991, c. 8, s. 56; 2005, c. 23, s. 123.

944.4. *(Repealed).*

History: 1992, c. 1, s. 84; 2005, c. 23, s. 123.

944.5. *(Repealed).*

History: 1993, c. 19, s. 72; 1997, c. 14, s. 153; 2005, c. 23, s. 123.

944.6. *(Repealed).*

History: 1997, c. 14, s. 154; 1998, c. 46, s. 65; 2005, c. 23, s. 123.

944.7. *(Repealed).*

History: 1997, c. 14, s. 154; 2005, c. 23, s. 123.

944.8. *(Repealed).*

History: 1997, c. 14, s. 154; 2005, c. 23, s. 123.

945. *(Repealed).*

History: 1975, c. 21, s. 23; 1975, c. 83, s. 84; 1982, c. 5, s. 165; 1984, c. 15, s. 206; 1987, c. 67, s. 172; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 787]; 2005, c. 23, s. 123.

946. *(Repealed).*

History: 1975, c. 21, s. 23; 1982, c. 5, s. 165; 1982, c. 56, s. 18; 1983, c. 44, s. 33; 1990, c. 7, s. 82; 1991, c. 8, s. 57; 1992, c. 1, s. 85; 1993, c. 19, s. 73; 1997, c. 14, s. 155; 2005, c. 23, s. 123.

946.1. *(Repealed).*

History: 1997, c. 14, s. 156; 2005, c. 23, s. 123.

CHAPTER III
*(Repealed).***947.** *(Repealed).*

History: 1975, c. 21, s. 23; 2005, c. 23, s. 123.

948. *(Repealed).*

History: 1975, c. 21, s. 23; 2005, c. 23, s. 123.

949. *(Repealed).*

History: 1975, c. 21, s. 23; 2005, c. 23, s. 123.

950. *(Repealed).*

History: 1975, c. 21, s. 23; 2005, c. 23, s. 123.

951. *(Repealed).*

History: 1975, c. 21, s. 23; 1979, c. 18, s. 67; 1984, c. 15, s. 207; 1990, c. 59, s. 327; 2005, c. 23, s. 123.

CHAPTER IV
*(Repealed).***952.** *(Repealed).*

History: 1975, c. 21, s. 23; 1978, c. 26, s. 175; 1982, c. 56, s. 19; 2005, c. 23, s. 123.

952.1. *(Repealed).*

History: 1978, c. 26, s. 176; 1980, c. 13, s. 90; 2005, c. 23, s. 123.

953. *(Repealed).*

History: 1975, c. 21, s. 23; 1978, c. 26, s. 177; 1982, c. 56, s. 20; 1997, c. 3, s. 71; 2005, c. 23, s. 123.

954. *(Repealed).*

History: 1975, c. 21, s. 23; 1978, c. 26, s. 178; 1982, c. 56, s. 21; 2005, c. 23, s. 123.

954.1. *(Repealed).*

History: 1982, c. 56, s. 21; 2005, c. 23, s. 123.

CHAPTER V
*(Repealed).***955.** *(Repealed).*

History: 1975, c. 21, s. 23; 1977, c. 26, s. 105; 1978, c. 26, s. 179; 1982, c. 5, s. 166; 1982, c. 56, s. 22; 1983, c. 44, s. 34; 1984, c. 35, s. 18; 1987, c. 67, s. 173; 1990, c. 7, s. 83; 1991, c. 8, s. 58; 1992, c. 1, s. 86; 1993, c. 19, s. 74; 1997, c. 14, s. 157; 1998, c. 46, s. 65; 2005, c. 23, s. 123.

955.1. *(Repealed).*

History: 1983, c. 44, s. 35; 2005, c. 23, s. 123.

956. *(Repealed).*

History: 1975, c. 21, s. 23; 1982, c. 56, s. 23; 2005, c. 23, s. 123.

957. *(Repealed).*

History: 1975, c. 21, s. 23; 1982, c. 56, s. 24; 2005, c. 23, s. 123.

CHAPTER VI
*(Repealed).***958.** *(Repealed).*

History: 1975, c. 21, s. 23; 1991, c. 25, s. 139; 1995, c. 49, s. 212; 1996, c. 39, s. 244; 2005, c. 23, s. 123.

CHAPTER VII
(Repealed).

959. (Repealed).

History: 1975, c. 21, s. 23; 1982, c. 5, s. 167; 1997, c. 14, s. 158; 2005, c. 23, s. 123.

960. (Repealed).

History: 1975, c. 21, s. 23; 1982, c. 5, s. 167; 1990, c. 7, s. 84; 2005, c. 23, s. 123.

961. (Repealed).

History: 1975, c. 21, s. 23; 2005, c. 23, s. 123.

961.1. (Repealed).

History: 1978, c. 26, s. 180; 1982, c. 5, s. 168; 1995, c. 63, s. 97; 1997, c. 14, s. 159; 2005, c. 23, s. 123.

961.1.1. (Repealed).

History: 1982, c. 56, s. 25; 2005, c. 23, s. 123.

961.1.2. (Repealed).

History: 1983, c. 44, s. 36; 1984, c. 35, s. 19; 1985, c. 25, s. 137; 2005, c. 23, s. 123.

961.1.3. (Repealed).

History: 1983, c. 44, s. 36; 1985, c. 25, s. 138; 2005, c. 23, s. 123.

961.1.4. (Repealed).

History: 1986, c. 15, s. 134; 2005, c. 23, s. 123.

961.1.4.1. (Repealed).

History: 1991, c. 8, s. 59; 2005, c. 23, s. 123.

TITLE V.1
REGISTERED RETIREMENT INCOME FUND

CHAPTER I
INTERPRETATION

Definitions:

961.1.5. In this Title,

"property held";

(a) "property held" in connection with a retirement income fund means property held by the carrier of the fund, whether held by the carrier as trustee or beneficial owner thereof, the value of which, or the income or loss from which is relevant in determining the amount for a year payable to the annuitant under the fund;

"carrier";

(b) "carrier" of a retirement income fund has the meaning assigned by subsection 1 of section 146.3 of the Income Tax

Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"minimum amount";

(c) "minimum amount" under a retirement income fund for a year means the amount determined under section 961.1.5.0.1 in respect of the fund for the year;

"designated benefit";

(c.1) "designated benefit" of an individual in respect of a registered retirement income fund means the aggregate of

i. such amounts paid out of or under the fund after the death of the last annuitant thereunder to the legal representative of that annuitant

(1) as would, had they been paid under the fund to the individual, have been refunds of premiums within the meaning assigned by the first paragraph of section 908, if the fund were a registered retirement savings plan under which the date provided for the first payment of benefits was subsequent to the death, and

(2) as are designated jointly by the legal representative and the individual on the prescribed form filed with the Minister; and

ii. amounts paid out of or under the fund after the death of the last annuitant thereunder to the individual that would be refunds of premiums within the meaning assigned by the first paragraph of section 908 had the fund been a registered retirement savings plan under which the date provided for the first payment of benefits was subsequent to the death;

"annuitant".

(d) "annuitant" under a retirement income fund at any time means any of the following persons:

i. the first individual to whom the carrier has undertaken to make the payments described in the definition of "retirement income fund" in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund, where the first individual is alive at that time;

ii. after the death of the first individual, a spouse, in this subparagraph referred to as the "surviving spouse", of the first individual to whom the carrier has undertaken to make payments described in the definition of "retirement income fund" in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund after the death of the first individual, where the surviving spouse is alive at that time and the undertaking was made pursuant to an election described in the said definition of the first individual or with the consent of the legal representative of the first individual; and

iii. after the death of the surviving spouse, another spouse of the surviving spouse to whom the carrier has undertaken, with the consent of the legal representative of the surviving spouse, to make payments described in the definition of

"retirement income fund" in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund after the death of the surviving spouse, where that other spouse is alive at that time.

History: 1988, c. 18, s. 92; 1991, c. 25, s. 140; 1994, c. 22, s. 291; 1995, c. 49, s. 213; 1996, c. 39, s. 245; 2000, c. 5, s. 215.

Corresponding Federal Provision: 146.3(1).

Determination of minimum amount.

961.1.5.0.1. The amount to which paragraph *c* of section 961.1.5 refers in respect of a retirement income fund is equal to zero for the year in which the arrangement relating to the fund is made and, for each subsequent year, to the amount determined by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the fair market value of all properties held in connection with the fund at the beginning of the year, other than annuity contracts held by a trust governed by the fund that, at the beginning of the year, are not referred to in paragraph *b.1* of the definition of "qualified investment" in subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(b) B is

i. where the first annuitant under the fund elected in respect of the fund under subparagraph ii of paragraph *c* of section 961.1.5, as it read before 1 January 1992, or under the first paragraph of section 961.4, as it read before 1 January 1986, to use the age of another individual, the prescribed factor for the year in respect of the other individual,

ii. where subparagraph i does not apply and the first annuitant under the fund so elects before any payment has been made under the fund by the carrier, the prescribed factor for the year in respect of an individual who is the spouse of the first annuitant at the time of the election, and

iii. in any other case, the prescribed factor for the year in respect of the first annuitant under the fund; and

(c) C is, where the fund governs a trust, the aggregate of all amounts each of which is

i. a periodic payment under an annuity contract held by the trust at the beginning of the year, other than an annuity contract referred to at the beginning of the year in paragraph *b.1* of the definition of "qualified investment" in subsection 1 of section 146.3 of the Income Tax Act, that is paid to the trust in the year, or

ii. if the periodic payment under an annuity contract described in subparagraph i is not made to the trust because the trust disposed of the right to that payment in the year, a reasonable estimate of that payment on the assumption that the annuity contract has been held by the trust throughout the year and no rights under the contract were disposed of in the year.

History: 2000, c. 5, s. 216; 2009, c. 5, s. 385.

Corresponding Federal Provision: 146.3(1) "minimum amount" (part).

Adjusted minimum amount for 2008.

961.1.5.0.2. The minimum amount under a retirement income fund for the taxation year 2008 is 75% of the amount that would, but for this section, be the minimum amount under the fund for that year.

Exception.

The first paragraph does not apply in respect of a retirement income fund

(a) for the purposes of section 961.17.0.1, paragraph *k* of the definition of "remuneration" in section 1015R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) and subparagraph *a* of the second paragraph of section 1015R21 of that regulation; or

(b) if the individual who was the annuitant under the fund on 1 January 2008 reached 70 years of age in the year 2007.

History: 2010, c. 5, s. 93.

Corresponding Federal Provision: 146.3(1.1) and (1.2).

961.1.5.1. (Repealed).

History: 1991, c. 25, s. 141; 1994, c. 22, s. 292.

961.2. (Repealed).

History: 1979, c. 18, s. 68; 1988, c. 18, s. 93; 1991, c. 25, s. 142.

961.3. (Repealed).

History: 1979, c. 18, s. 68; 1988, c. 18, s. 94; 1991, c. 25, s. 142.

961.4. (Repealed).

History: 1979, c. 18, s. 68; 1984, c. 15, s. 208; 1988, c. 18, s. 95.

961.5. (Repealed).

History: 1979, c. 18, s. 68; 1984, c. 15, s. 209; 1988, c. 18, s. 96; 1991, c. 25, s. 142.

961.5.1. (Repealed).

History: 1982, c. 5, s. 169; 1988, c. 18, s. 96; 1991, c. 25, s. 142.

961.6. (Repealed).

History: 1979, c. 18, s. 68; 1988, c. 18, s. 96; 1991, c. 25, s. 142.

961.7. *(Repealed).*

History: 1979, c. 18, s. 68; 1988, c. 18, s. 97.

Designated benefit deemed received.

961.8. A designated benefit of an individual in respect of a registered retirement income fund that is received by the legal representative of the last annuitant under the fund is deemed to be received by the individual out of or under the fund at the time it is received by the legal representative and, except for the purposes of paragraph *c.1* of section 961.1.5, not to be received out of or under the fund by any other person.

History: 1979, c. 18, s. 68; 1980, c. 13, s. 91; 1988, c. 18, s. 98; 1995, c. 49, s. 214.

Corresponding Federal Provision: 146.3(6.1).

Credited or added amount deemed not received.

961.8.1. Where, at any particular time, an amount is credited or added to a deposit with a depositary referred to in paragraph *d* of the definition of "carrier" in subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement income fund the annuitant under which was alive during the calendar year in which the amount is credited or added or during the preceding calendar year, the amount is deemed not to be received by the annuitant or any other person solely because of the crediting or adding.

History: 1982, c. 5, s. 170; 1988, c. 18, s. 98; 1991, c. 25, s. 143; 1995, c. 49, s. 214.

Corresponding Federal Provision: 146.3(15).

CHAPTER II**CHANGE IN FUND AFTER REGISTRATION****Change in fund after registration.**

961.9. Where a registered retirement income fund is revised or amended or a new fund is substituted therefor, and the fund as revised or amended or the new fund substituted therefor, as the case may be, in this section referred to as the "amended fund", is deemed, under subsection 11 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), not to be a registered retirement income fund for the purposes of the said Act, the following rules apply:

(a) the amended fund is deemed, for the purposes of this Part, not to be a registered retirement income fund;

(b) the individual who was the annuitant under the fund before it became an amended fund shall, in computing his income for the taxation year that includes that day, include as income received out of the fund at that time an amount equal

to the fair market value of all the property held in connection with the fund immediately before that time.

History: 1979, c. 18, s. 68; 1984, c. 15, s. 210; 1988, c. 18, s. 100; 1991, c. 25, s. 144.

Corresponding Federal Provision: 146.3(11).

961.9.1. *(Repealed).*

History: 1988, c. 18, s. 101; 1991, c. 25, s. 145.

961.9.2. *(Repealed).*

History: 1988, c. 18, s. 101; 1991, c. 25, s. 145.

961.10. *(Repealed).*

History: 1979, c. 18, s. 68; 1988, c. 18, s. 102.

961.11. *(Repealed).*

History: 1979, c. 18, s. 68; 1988, c. 18, s. 102.

CHAPTER III**TAXATION****No tax while trust governed by fund.**

961.12. No tax is payable by a trust under this Part for a taxation year if, throughout the period in the year during which the trust is in existence, the trust is governed by a registered retirement income fund.

History: 1979, c. 18, s. 68.

Corresponding Federal Provision: 146.3(3) before (a).

Exception to tax exemption.

961.13. Notwithstanding section 961.12, a trust governed by a registered retirement income fund shall pay tax under this Part on its taxable income for a taxation year

(a) if it borrows money in the year or has borrowed money that it has not repaid before the commencement of the year, or

(b) if it receives in the year a gift of property, other than property transferred in accordance with subparagraph i or ii of paragraph *f* of subsection 2 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or received such a gift of property in a preceding year and has not divested itself of that property or any property substituted therefor before the commencement of the year.

History: 1979, c. 18, s. 68; 1991, c. 25, s. 146; 1995, c. 49, s. 215.

Corresponding Federal Provision: 146.3(3)(a) and (b).

Exception to tax exemption.

961.14. Where section 961.13 does not apply, a trust governed by a registered retirement income fund that carries on a business in a taxation year shall, notwithstanding section 961.12, pay tax under this Part on the amount by

which the amount that its taxable income for the year would be if it had no incomes or losses from sources other than that business, exceeds such portion of the taxable income as can reasonably be considered to be income from, or from the disposition of, qualified investments within the meaning of subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1979, c. 18, s. 68; 1995, c. 49, s. 216.

Corresponding Federal Provision: 146.3(3)(c), (d) and (e).

Tax on non-qualified investment.

961.15. Despite section 961.12, a trust governed by a registered retirement income fund that holds, at any time in a taxation year, a property that is not a qualified investment for the purposes of subsection 9 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) shall pay tax under this Part on the amount that its taxable income for the year would be if the trust had no incomes or losses from sources other than properties that are not such qualified investments and no capital gains or capital losses other than from the disposition of such properties.

History: 1979, c. 18, s. 68; 1991, c. 25, s. 147; 2009, c. 5, s. 386; 2012, c. 8, s. 153.

Corresponding Federal Provision: 146.3(9) and 207.04(3).

Income of a trust.

961.16. For the purposes of section 961.15, income of a trust includes dividends described in sections 501 to 503, and the first paragraph of section 231 shall be construed as if the taxable capital gain or the allowable capital loss were the total capital gain or the total capital loss, as the case may be, from the disposition of property.

History: 1979, c. 18, s. 68; 1984, c. 15, s. 211; 1990, c. 59, s. 328.

Corresponding Federal Provision: 146.3(9)(b).

Other exception from tax exemption.

961.16.1. Notwithstanding sections 961.12 to 961.16, a trust governed by a registered retirement income fund shall pay tax under this Part on its taxable income for each taxation year after the year following the year in which the last annuitant under the fund died.

History: 1980, c. 13, s. 92; 1988, c. 18, s. 103; 1995, c. 49, s. 217.

Corresponding Federal Provision: 146.3(3.1).

CHAPTER IV

AMOUNTS TO BE INCLUDED

Amount received under a registered retirement income fund.

961.17. An individual shall include in computing his income for a taxation year an amount received by him in the year out of or under a registered retirement income fund, other than the portion of that amount that can reasonably be regarded as

(a) part of the amount included in computing the income of another individual under section 961.17.1;

(b) an amount received in respect of the income of the trust under the fund for a taxation year referred to in section 961.16.1;

(c) an amount that relates to interest, or to another amount included in computing income otherwise than because of any of the provisions of this Title, and that would, if the fund were a registered retirement savings plan, be a tax-paid amount described in subparagraph ii of paragraph c.1 of section 905.1; or

(d) an amount in respect of which the taxpayer pays a tax under Part XI.01 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), unless the tax is waived, cancelled or refunded.

Amount transferred from a registered retirement income fund.

An amount transferred on behalf of an individual from a registered retirement income fund of an annuitant is not to be included in computing the income of a taxpayer, solely because of that transfer, where the amount is

(a) an amount transferred as described in paragraph e of subsection 2 of section 146.3 of the Income Tax Act;

(b) an amount transferred on behalf of an individual who is a spouse or former spouse of the annuitant and who is entitled to the amount under an order or judgment of a competent court, or under a written separation agreement, relating to a partition of property between the annuitant and the annuitant's spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage, directly to

i. a registered retirement income fund under which the individual is the annuitant, or

ii. a registered retirement savings plan under which the individual is the annuitant within the meaning of paragraph b of section 905.1;

(b.1) an amount transferred at the direction of the annuitant directly to an account of the annuitant under a pooled registered pension plan; or

(c) an amount transferred at the direction of the annuitant directly to a registered pension plan of which, at any time before the transfer, the annuitant was a member, within the meaning of section 965.0.1, or to a prescribed registered pension plan and allocated to the annuitant under a money

purchase provision of the plan, within the meaning of section 965.0.1.

History: 1979, c. 18, s. 68; 1980, c. 13, s. 93; 1988, c. 18, s. 104; 1991, c. 25, s. 148; 1994, c. 22, s. 293; 1995, c. 49, s. 236; 1997, c. 14, s. 290; 2000, c. 5, s. 217; 2005, c. 1, s. 200; 2012, c. 8, s. 154; 2015, c. 21, s. 348.

Corresponding Federal Provision: 146.3(5), (14) and (14.2).

Amount included in income.

961.17.0.1. Where, at any time in a taxation year, a particular amount in respect of a registered retirement income fund that is a spousal plan, within the meaning of paragraph *f* of section 905.1, in relation to an individual is required to be included in computing the income of the individual's spouse and the individual is not an individual who is living apart from his spouse at that time because of the breakdown of their marriage, the individual shall include, at that time, in computing his income for the year, the least of the following amounts:

(a) the aggregate of all amounts each of which is a premium, within the meaning of paragraph *e* of section 905.1, paid by him in the year or in one of the two immediately preceding taxation years to a registered retirement savings plan under which his spouse was the annuitant, within the meaning of paragraph *b* of section 905.1, at the time the premium was paid,

(b) the particular amount, and

(c) the amount by which the aggregate of all amounts each of which is an amount in respect of the fund that is required, in the year and at or before that time, to be included in computing the income of the individual's spouse exceeds the minimum amount under the fund for the year.

History: 1988, c. 18, s. 105; 1991, c. 25, s. 149; 1995, c. 1, s. 96.

Corresponding Federal Provision: 146.3(5.1).

961.17.0.2. (*Repealed*).

History: 1988, c. 18, s. 105; 1991, c. 25, s. 150.

Premiums.

961.17.0.3. Where an individual has paid more than one premium described in section 961.17.0.1, such a premium or part thereof paid by him at any time is deemed to have been included in computing his income by virtue of the said section before premiums or parts thereof paid by him after that time.

History: 1988, c. 18, s. 105.

Corresponding Federal Provision: 146.3(5.3).

Exception.

961.17.0.3.1. For the purposes of section 961.17.0.1, paragraph *k* of the definition of "remuneration" in section

1015R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) and subparagraph *a* of the second paragraph of section 1015R21 of that Regulation, the minimum amount under a retirement income fund for the taxation year 2015 is the amount that would be the minimum amount under the fund for the year if it were determined using the prescribed factor referred to in section 961.1.5.0.1R1 of that Regulation for the taxation year 2014.

History: 2017, c. 29, s. 165.

Corresponding Federal Provision: 146.3(1.3).

Where s. 961.17.0.1 does not apply.

961.17.0.4. Section 961.17.0.1 does not apply

(a) in respect of an individual at any time during the year in which the individual dies;

(b) in respect of an individual where either the individual or the annuitant is not a resident in Canada at the particular time referred to in the said section;

(c) to any payment that is received in full or partial commutation of a registered retirement savings plan or a registered retirement income fund and in respect of which a deduction was made under paragraph *f* of section 339 if, where the deduction was in respect of the acquisition of an annuity, the terms thereof provide that it cannot be commuted, and it is not commuted, in whole or in part within three years after the acquisition thereof;

(d) in respect of an amount that is deemed, under the first paragraph of section 961.17.1, to have been received by an annuitant under a registered retirement income fund immediately before his death.

History: 1988, c. 18, s. 105; 1991, c. 25, s. 151.

Corresponding Federal Provision: 146.3(5.5).

Premium included in computing income.

961.17.0.5. Where, in respect of an amount required, at any time in a taxation year, to be included in computing the income of the individual's spouse, all or part of a premium has, by virtue of section 961.17.0.1, been included in computing the individual's income for the year, the following rules apply:

(a) the premium or part thereof, as the case may be, is, for the purposes of sections 931.1 and 961.17.0.1, after that time, deemed not to have been a premium paid to a registered retirement savings plan under which the individual's spouse was the annuitant, within the meaning of paragraph *b* of section 905.1; and

(b) an amount equal to the premium or part thereof, as the case may be, may be deducted in computing the income of the spouse for the year.

History: 1988, c. 18, s. 105; 1991, c. 25, s. 152.

Corresponding Federal Provision: 146.3(5.4).

Where last annuitant dies.

96L17.1. Where the last annuitant under a registered retirement income fund dies, that annuitant is deemed to have received, immediately before death, an amount out of or under a registered retirement income fund equal to the fair market value of the property of the fund at the time of the death.

Deduction.

However, the annuitant referred to in the first paragraph may deduct from the amount he is deemed to have received under that paragraph an amount not exceeding the amount determined by the formula

$$A \times \{1 - [(B + C - D) / (B + C)]\}.$$

Interpretation.

For the purposes of the formula in the second paragraph,

(a) A is the aggregate of

i. all designated benefits of individuals in respect of the fund,

ii. all amounts that would, if the fund were a registered retirement savings plan, be tax-paid amounts, within the meaning assigned by paragraph c.1 of section 905.1, in respect of the fund received by individuals who received, otherwise than because of section 961.8, designated benefits in respect of the fund, and

iii. all amounts each of which is an amount that would, if the fund were a registered retirement savings plan, be a tax-paid amount, within the meaning of paragraph c.1 of section 905.1, in respect of the fund received by the legal representative of the last annuitant under the fund, to the extent that the legal representative would have been entitled to designate that tax-paid amount under subparagraph i of paragraph c.1 of section 961.1.5 if tax-paid amounts were not excluded in determining refunds of premiums as defined in the first paragraph of section 908;

(b) B is the fair market value of the property of the fund at the particular time that is the later of the end of the first calendar year beginning after the death of the annuitant and the time immediately after the last time that any designated benefit in respect of the fund is received by an individual;

(c) C is the aggregate of all amounts paid out of or under the fund after the death of the last annuitant and before the particular time; and

(d) D is the lesser of the fair market value of the property of the fund at the time of the death of the last annuitant

thereunder and the aggregate of all amounts determined in respect of the fund under paragraphs b and c.

History: 1980, c. 13, s. 93; 1982, c. 5, s. 171; 1988, c. 18, s. 106; 1995, c. 49, s. 218; 2000, c. 5, s. 218.

Corresponding Federal Provision: 146.3(6) and (6.2).

Acquisition or disposition of property by trust.

96L18. Where, at any time in a taxation year, a trust governed by a registered retirement income fund acquires property for a consideration greater than its fair market value at that time or disposes of property for no consideration or for a consideration less than its fair market value at that time, the annuitant under the fund at that time shall include, in computing his income for the year, twice the difference between such value and such consideration.

History: 1979, c. 18, s. 68; 1988, c. 18, s. 106.

Corresponding Federal Provision: 146.3(4).

Property used as security for loan.

96L19. If, at any time in a taxation year, a trust governed by a registered retirement income fund uses or permits to be used any property of the trust as security for a loan, the annuitant under the fund at that time shall include, in computing the annuitant's income for the year, the fair market value of the property at the time it commenced to be so used.

History: 1979, c. 18, s. 68; 1980, c. 13, s. 94; 1988, c. 18, s. 106; 1991, c. 25, s. 153; 2012, c. 8, s. 155.

Corresponding Federal Provision: 146.3(7).

CHAPTER V DEDUCTIONS

96L20. *(Repealed).*

History: 1979, c. 18, s. 68; 1988, c. 18, s. 106; 1991, c. 25, s. 154; 2012, c. 8, s. 156.

Recovery of property used as security for loan.

96L21. (1) Where, at any time in a taxation year, a loan for which a trust governed by a registered retirement income fund has used or permitted to be used trust property as security ceases to be extant and the fair market value of the property so used was included, by virtue of section 961.19, in computing the income of the individual who is the annuitant under the fund, the individual who is at that time the annuitant under the fund may deduct, in computing his income for the year, the amount by which the amount so included in computing the income of an individual in consequence of the trust's using or permitting to be used the property as security for the loan exceeds the net loss sustained by the trust in consequence of its using or permitting to be used the property as security for the loan.

Loss contemplated in subsection 1.

(2) However, the loss contemplated in subsection 1 does not include payments made by the trust as interest nor a change in the fair market value of the property.

History: 1979, c. 18, s. 68; 1988, c. 18, s. 107; 1991, c. 25, s. 155.

Corresponding Federal Provision: 146.3(10).

Deduction.

961.21.0.1. If the last annuitant under a registered retirement income fund dies, there may be deducted in computing the annuitant's income for the taxation year in which the annuitant dies an amount not exceeding the amount determined, after all amounts payable under the fund have been paid, by the formula

A – B.

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is

i. the amount deemed by the first paragraph of section 961.17.1 to have been received by the annuitant out of or under the fund,

ii. an amount (other than an amount described in subparagraph iii) received, after the death of the annuitant, by an individual out of or under the fund and included under the first paragraph of section 961.17 in computing the individual's income, or

iii. an amount that would, if the fund were a registered retirement savings plan, be a tax-paid amount, within the meaning of section 905.1, in respect of the fund; and

(b) B is the aggregate of all amounts paid out of or under the fund after the death of the annuitant.

History: 2010, c. 5, s. 94.

Corresponding Federal Provision: 146.3(6.3).

Conditional application of section 961.21.0.1.

961.21.0.2. Unless the Minister has waived in writing the application of this section with respect to all or any portion of the amount determined in section 961.21.0.1, that section does not apply in respect of an annuitant under a registered retirement income fund if

(a) after the death of the annuitant, a trust governed by the fund held an investment that was not a qualified investment for the purposes of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); or

(b) the last payment out of or under the fund was made after the end of the year following the year in which the annuitant died.

History: 2010, c. 5, s. 94.

Corresponding Federal Provision: 146.3(6.4).

Amount transferred from a registered retirement income fund.

961.21.1. An amount transferred on behalf of an individual from a registered retirement income fund of an annuitant is not to be deducted in computing the income of a taxpayer, where the amount so transferred is transferred in a situation described in any of subparagraphs *a* to *c* of the second paragraph of section 961.17.

History: 2005, c. 1, s. 201.

Corresponding Federal Provision: 146.3(14.2).

CHAPTER VI

(Repealed).

961.22. *(Repealed).*

History: 1979, c. 18, s. 68; 1982, c. 5, s. 172; 1991, c. 25, s. 156.

TITLE V.2**ELECTION IN RESPECT OF A UNIT IN A QUALIFIED TRUST****Qualified trust.**

961.23. In this Title, “qualified trust” has the meaning assigned by subsection 5 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1987, c. 67, s. 174; 1995, c. 49, s. 219; 1997, c. 3, s. 42; 2006, c. 13, s. 67.

Corresponding Federal Provision: 259(5) “qualified trust”.

Election of taxpayer.

961.24. For the purposes of Titles III, III.1, IV, IV.3 and V.1, where, at a particular time, a taxpayer that is a trust governed by a registered education savings plan, a registered disability savings plan, a tax-free savings account, a registered retirement savings plan or a registered retirement income fund acquires, holds or disposes of a unit in a qualified trust, the qualified trust may, to the extent that it has made a valid election, in respect of a period, under subsection 1 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), elect in the prescribed manner, in respect of that period, to have the following rules apply:

(a) the taxpayer is deemed not to acquire, hold or dispose of at that time, as the case may be, the unit;

(b) where the taxpayer holds the unit at that time, the taxpayer is deemed to hold at that time that proportion, referred to in this section as the “specified portion”, of each

property, in this section referred to as a “relevant property”, held by the qualified trust at that time that one or, where the unit is a fraction of a whole unit, that fraction, is of the number of units of the qualified trust outstanding at that time;

(c) *(paragraph repealed)*;

(d) where that time is the later of the time the qualified trust acquires the relevant property and the time the taxpayer acquires the unit, the taxpayer is deemed to acquire the specified portion of a relevant property at that time;

(e) where that time is the time the specified portion of a relevant property is deemed under paragraph *d* to have been acquired, the fair market value of the specified portion of the relevant property at that time is deemed to be the specified portion of the fair market value of the relevant property at the time of its acquisition by the qualified trust;

(f) where that time is the time immediately before the time the qualified trust disposes of a particular relevant property, the taxpayer is deemed to dispose of, immediately after that time, the specified portion of the particular relevant property for proceeds equal to the specified portion of the proceeds of disposition to the qualified trust of the particular relevant property;

(g) where that time is the time immediately before the time the taxpayer disposes of the unit, the taxpayer is deemed to dispose of, immediately after that time, the specified portion of each relevant property for proceeds equal to the specified portion of the fair market value of that relevant property at that time; and

(h) where the taxpayer is deemed because of this section to have acquired a portion of a relevant property as a consequence of the acquisition of the unit by the taxpayer and the acquisition of the relevant property by the qualified trust, and subsequently to have disposed of the specified portion of the relevant property, the specified portion of the relevant property is, for the purpose of determining the consequences under this Act of the disposition and without affecting the proceeds of disposition of the specified portion of the relevant property, deemed to be the portion of the relevant property the taxpayer is deemed to have acquired.

History: 1987, c. 67, s. 174; 1995, c. 49, s. 219; 2006, c. 13, s. 68; 2009, c. 15, s. 171; 2012, c. 8, s. 157.

Corresponding Federal Provision: 259(1) and (5) “specified taxpayer” and “designated provisions”.

961.24.1. *(Repealed)*.

History: 1995, c. 49, s. 219; 2005, c. 23, s. 124.

961.24.2. *(Repealed)*.

History: 1995, c. 49, s. 219; 1997, c. 3, s. 71; 2005, c. 23, s. 125; 2006, c. 13, s. 69.

961.24.3. *(Repealed)*.

History: 1995, c. 49, s. 219; 1997, c. 3, s. 71; 2005, c. 23, s. 126.

Requirement to provide information.

961.24.4. If a qualified trust makes an election under section 961.24,

(a) it shall provide notification of the election

i. not later than 30 days after making the election, to each person who held a unit in the qualified trust before the election was made and during the period for which the election is applicable, and

ii. at the time of acquisition, to each person who acquires a unit in the qualified trust after the election has been made and during the period for which the election is applicable; and

(b) where a person who holds a unit in the qualified trust during the period for which the election is applicable makes a written request to the qualified trust for information that is necessary for the purpose of determining the consequences under this Part of the election for that person, the qualified trust shall provide the person with that information not later than 30 days after receiving the request.

History: 1995, c. 49, s. 219; 1997, c. 3, s. 71; 2005, c. 23, s. 127; 2006, c. 13, s. 70.

Corresponding Federal Provision: 259(4).

**TITLE VI
REGISTERED SUPPLEMENTARY
UNEMPLOYMENT BENEFIT PLANS**

Supplementary unemployment benefit plan.

962. (1) For the purposes of this Part, a supplementary unemployment benefit plan is an arrangement under which an employer pays to a trust sums of money to be used exclusively to pay a periodic amount to an employee or former employee of the employer who is laid off for a temporary or indefinite period.

Restriction.

(2) The plan contemplated in subsection 1 does not include however an arrangement in the nature of a pension plan or a profit sharing plan.

Registration of plan.

(3) A supplementary unemployment benefit plan is registered when approved by the Minister for registration for the purposes of this Part and the regulations in respect of its constitution and operations for the taxation year under consideration.

History: 1972, c. 23, s. 694.

Corresponding Federal Provision: 145(1).

Tax exemption.

963. No tax is payable by a trust under this Part for the period during which it is governed by a registered supplementary unemployment benefit plan.

History: 1972, c. 23, s. 695.

Corresponding Federal Provision: 145(2).

Employer's contributions deductible.

964. An employer may deduct from his income for a taxation year any amount which he pays in such year or within 30 days thereafter to a trust governed by a plan contemplated in section 962, to the extent that such amount was not deductible in computing his income for a previous taxation year.

Inclusion.

The employer must include any amount which he receives following an amendment to or modification of the plan or following the winding-up of the plan.

History: 1972, c. 23, s. 696.

Corresponding Federal Provision: 145(4) and (5).

Amounts included in computing beneficiary's income.

965. A beneficiary of a plan contemplated in section 962 must include in computing his income for a taxation year any amount which he receives from the trust under such plan in that year.

History: 1972, c. 23, s. 697.

Corresponding Federal Provision: 145(3).

TITLE VI.0.1**REGISTERED PENSION PLANS****CHAPTER I****DEFINITIONS****Definitions:**

965.0.1. For the purposes of this Title,

“defined benefit provision”;

“defined benefit provision” of a pension plan has the meaning assigned by subsection 1 of section 147.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

“licensed annuities provider”;

“licensed annuities provider” means a person who is licensed or otherwise authorized under a law of Canada or a province to carry on an annuities business in Canada;

“member”;

“member” of a pension plan means an individual who has a right, either immediate or in the future and either absolute or contingent, to receive benefits under the plan, other than an individual who has such a right only by reason of the participation of another individual in the plan;

“money purchase provision”;

“money purchase provision” of a pension plan has the meaning assigned by subsection 1 of section 147.1 of the Income Tax Act;

“single amount”.

“single amount” means an amount that is not part of a series of periodic payments.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 294; 2000, c. 5, s. 219.

Corresponding Federal Provision: 147.1(1).

Plan as registered.

965.0.1.1. Any reference in this Part and the regulations to a pension plan as registered means the terms of the plan on the basis of which the Minister of Revenue of Canada has registered the plan for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and as amended by each amendment referred to in paragraph *a* or *b* of subsection 15 of section 147.1 of that Act, and includes all terms that are not contained in the documents constituting the plan but that are terms of the plan by reason of the Pension Benefits Standards Act, 1985 (Revised Statutes of Canada, 1985, chapter 32, 2nd Supplement) or a similar law of a province.

History: 2000, c. 5, s. 220.

Corresponding Federal Provision: 147.1(15).

CHAPTER II**DEDUCTIONS****Deduction of employer contributions.**

965.0.2. There may be deducted in computing an employer's income for a taxation year ending after 31 December 1990, the amount that, by virtue of paragraph *q* of subsection 1 of section 20 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), is allowed as a deduction for the year in computing the employer's income for the purposes of that Act in respect of a contribution made to a registered pension plan.

History: 1991, c. 25, s. 157; 2015, c. 21, s. 349.

Corresponding Federal Provision: 20(1)(q) and 147.2(1) and (2).

Deduction of employee's contributions.

965.0.3. An individual may deduct, in computing his income for a taxation year ending after 31 December 1990, an amount equal to the aggregate of the following amounts:

(a) the amounts that, by virtue of paragraph *m* of subsection 1 of section 8 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), are allowed as a deduction for the year in respect of the individual in computing his income for the purposes of the said Act, to the extent that the said paragraph refers to paragraph *a* of subsection 4 of section 147.2 of the said Act,

(b) the least of the following amounts:

- i. the amount described in the second paragraph,
- ii. \$5,500, and
- iii. the amount determined by the formula

$(\$5,500 \times Y) - Z;$

(c) the lesser of the following amounts:

- i. the amount by which

(1) the aggregate of all amounts each of which is a contribution, other than an additional voluntary contribution, a contribution prescribed by regulation for the purposes of clause A of subparagraph i of paragraph c of subsection 4 of section 147.2 of the Income Tax Act or a contribution included in the aggregate determined in respect of the individual for the year under subparagraph a of the second paragraph, made by the individual in the year or any preceding taxation year and after 31 December 1962, to a registered pension plan in respect of a particular year before the year 1990, if all or any part of the particular year is included in the individual's eligible service under the plan, exceeds

(2) the aggregate of all amounts each of which is an amount deducted, in computing the individual's income for any preceding taxation year, in respect of contributions included in the aggregate determined in respect of the individual for the year under subparagraph 1, and

- ii. the amount by which \$5,500 exceeds the aggregate of the amounts deducted by reason of paragraphs a and b in computing the individual's income for the year.

Interpretation.

The amount referred to in subparagraph i of subparagraph b of the first paragraph is equal to the amount by which

(a) the aggregate of all amounts each of which is a contribution, other than an additional voluntary contribution or a contribution prescribed by regulation for the purposes of clause A of subparagraph i of paragraph b of subsection 4 of section 147.2 of the Income Tax Act, made by the individual in the year or any preceding taxation year and after 31 December 1945, to a registered pension plan in respect of a particular year before the year 1990, if all or any part of the particular year is included in the individual's eligible service under the plan and if

- i. in the case of a contribution that the individual made before 28 March 1988 or was obliged to make under the terms of an agreement in writing entered into before that date, the individual was not a contributor to the plan in the particular year, or

- ii. in any other case, the individual was not a contributor to any registered pension plan in the particular year, exceeds

(b) the aggregate of all amounts each of which is an amount deducted, in computing the individual's income for any preceding taxation year, in respect of contributions included in the aggregate determined in respect of the individual for the year under subparagraph a.

Interpretation.

For the purposes of the formula set forth in subparagraph iii of subparagraph b of the first paragraph,

(a) Y is the number of calendar years before the year 1990 each of which is

- i. a year all or any part of which is included in the individual's eligible service under a registered pension plan to which the individual has made a contribution that is included in the aggregate determined under subparagraph a of the second paragraph, if the individual was not a contributor to any registered pension plan in that year, or

- ii. a year all or any part of which is included in the individual's eligible service under a registered pension plan to which the individual has made a contribution before 28 March 1988, or was obliged to make a contribution under the terms of an agreement in writing entered into before that date, that is included in the aggregate determined under subparagraph a of the second paragraph, if the individual was not a contributor to the plan in that year, and

(b) Z is the aggregate of all amounts each of which is an amount deducted in computing the individual's income for any preceding taxation year

- i. in respect of contributions included in the aggregate determined in respect of the individual for the year under subparagraph a of the second paragraph, or

- ii. where the preceding year is before the year 1987, under paragraph c of section 70 to the extent permitted by paragraph b of section 71, as it read for that preceding year, in respect of additional voluntary contributions made in respect of a year that satisfies the conditions specified in subparagraph a.

History: 1991, c. 25, s. 157; 2000, c. 5, s. 221.

Corresponding Federal Provision: 147.2(4).

965.0.4. (Repealed).

History: 1991, c. 25, s. 157; 1995, c. 63, s. 98; 1998, c. 16, s. 213.

Corresponding Federal Provision: 147.2(6).

Deductible contributions when taxpayer dies.

965.0.4.1. Where a taxpayer dies in a taxation year, for the purpose of computing the taxpayer's income for the year and the preceding taxation year, the following rules apply:

(a) subparagraph *b* of the first paragraph of section 965.0.3 shall be read without reference to subparagraph *ii* thereof; and

(b) subparagraph *c* of the first paragraph of section 965.0.3 shall be read as follows:

“(c) the amount by which

i. the aggregate of all amounts each of which is a contribution, other than an additional voluntary contribution, a contribution prescribed by regulation for the purposes of clause A of subparagraph *i* of paragraph *c* of subsection 4 of section 147.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or a contribution included in the aggregate determined in respect of the individual for the year under subparagraph *a* of the second paragraph, made by the individual in the year or any preceding taxation year and after 31 December 1962, to a registered pension plan in respect of a particular year before the year 1990, if all or any part of the particular year is included in the individual’s eligible service under the plan, exceeds

ii. the aggregate of all amounts each of which is an amount deducted, in computing the individual’s income for any preceding taxation year, in respect of contributions included in the aggregate determined in respect of the individual for the year under subparagraph *i*.”

History: 2000, c. 5, s. 222.

Corresponding Federal Provision: 147.2(6).

CHAPTER III TRANSFERS

Transfer.

965.0.5. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount,

(b) the amount is transferred on behalf of a member in full or partial satisfaction of his entitlement to benefits under a money purchase provision of the plan as registered, and

(c) the amount is transferred directly to

i. another registered pension plan to provide benefits in respect of the member under a money purchase provision of that plan,

ii. a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the member is the annuitant, within the meaning of paragraph *d* of section 961.1.5.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 295.

Corresponding Federal Provision: 147.3(1).

Transfer.

965.0.6. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount,

(b) the amount is transferred on behalf of a member in full or partial satisfaction of his entitlement to benefits under a money purchase provision of the plan as registered, and

(c) the amount is transferred directly to another registered pension plan to fund benefits provided in respect of the member under a defined benefit provision of that plan.

History: 1991, c. 25, s. 157.

Corresponding Federal Provision: 147.3(2).

Transfer.

965.0.7. An amount is transferred from a registered pension plan, in this section referred to as the "transferor plan", in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount,

(b) the amount consists of all or any part of the property held in connection with a defined benefit provision of the transferor plan,

(c) the amount is transferred directly to another registered pension plan to be held in connection with a defined benefit provision of the other plan, and

(d) the amount is transferred as a consequence of benefits becoming provided under the defined benefit provision of the other plan to one or more individuals who were members of the transferor plan.

History: 1991, c. 25, s. 157.

Corresponding Federal Provision: 147.3(3).

Transfer.

965.0.8. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount no portion of which relates to an actuarial surplus,

(b) the amount is transferred on behalf of a member in full or partial satisfaction of benefits to which the member is

entitled, either absolutely or contingently, under a defined benefit provision of the plan as registered,

(c) the amount does not exceed the amount referred to in paragraph *c* of subsection 4 of section 147.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and

(d) the amount is transferred directly to

i. another registered pension plan and allocated to the member under a money purchase provision of that plan,

ii. a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the member is the annuitant, within the meaning of paragraph *d* of section 961.1.5.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 296.

Corresponding Federal Provision: 147.3(4).

Transfer.

965.0.8.1. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is transferred in respect of the actuarial surplus under a defined benefit provision of the plan, and

(b) the amount is transferred directly to another registered pension plan and allocated under a money purchase provision of that plan to one or more members of that plan.

History: 1994, c. 22, s. 297.

Corresponding Federal Provision: 147.3(4.1).

Transfer on marriage breakdown.

965.0.9. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount no portion of which relates to an actuarial surplus,

(b) the amount is transferred on behalf of an individual who is the spouse or former spouse of a member of the plan and who is entitled to the amount under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a partition of property between the member and the individual in settlement of rights arising out of, or on the breakdown of, their marriage, and

(c) the amount is transferred directly to

i. another registered pension plan for the benefit of the individual,

ii. a registered retirement savings plan under which the individual is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the individual is the annuitant, within the meaning of paragraph *d* of section 961.1.5.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 298; 1995, c. 49, s. 236; 1997, c. 14, s. 290; 2003, c. 2, s. 257.

Corresponding Federal Provision: 147.3(5).

Transfer as a consequence of a right to a return of contributions.

965.0.10. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount,

(b) the amount is transferred on behalf of a member who is entitled to the amount as a return of contributions made (or deemed to have been made) by the member under a defined benefit provision of the plan before 1 January 1991, or as interest, computed at a reasonable rate, in respect of those contributions, and

(c) the amount is transferred directly to

i. another registered pension plan for the benefit of the member,

ii. a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the member is the annuitant, within the meaning of paragraph *d* of section 961.1.5.

Presumption.

For the purposes of subparagraph *b* of the first paragraph, if an amount is transferred in accordance with section 965.0.7 to a defined benefit provision (in this paragraph referred to as the “current provision”) of a registered pension plan from a defined benefit provision (in this paragraph referred to as the “former provision”) of another registered pension plan on behalf of all or a significant number of members whose benefits under the former provision are replaced by benefits under the current provision, each current service contribution made at a particular time under the former provision by a member whose benefits are so replaced is deemed to be a current service contribution made at that particular time under the current provision by the member.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 299; 2015, c. 21, s. 350.

Corresponding Federal Provision: 147.3(6).

Transfer on death.

965.0.11. An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount no portion of which relates to an actuarial surplus,

(b) the amount is transferred on behalf of an individual who is entitled to the amount as a consequence of the death of a member of the plan and who was a spouse or former spouse of the member at the date of the member's death, and

(c) the amount is transferred directly to

i. another registered pension plan for the benefit of the individual,

ii. a registered retirement savings plan under which the individual is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the individual is the annuitant, within the meaning of paragraph *d* of section 961.1.5.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 300.

Corresponding Federal Provision: 147.3(7).

Transfer.

965.0.11.1. An amount is transferred from a registered pension plan, in this section referred to as the "transferor plan", in accordance with this section if

(a) the amount is a single amount;

(b) the amount is transferred in respect of the surplus under a money purchase provision, in this section referred to as the "former provision", of the transferor plan;

(c) the amount is transferred directly to another registered pension plan to be held in connection with a money purchase provision, in this section referred to as the "current provision", of the other plan;

(d) the amount is transferred in conjunction with the transfer of amounts from the former provision to the current provision on behalf of all or a significant number of members of the transferor plan whose benefits under the former provision are replaced by benefits under the current provision; and

(e) the transfer is acceptable, for the purposes of paragraph *e* of subsection 7.1 of section 147.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the Minister of National Revenue and

that Minister has so notified the administrator of the transferor plan in writing.

"surplus".

For the purposes of subparagraph *b* of the first paragraph, "surplus" has the meaning assigned for the purposes of paragraph *b* of subsection 7.1 of section 147.3 of the Income Tax Act.

History: 2003, c. 2, s. 258.

Corresponding Federal Provision: 147.3(7.1).

Transfer.

965.0.12. An amount is transferred from a registered pension plan, in this section referred to as the "transferor plan", in accordance with this section if the following conditions are satisfied:

(a) the amount is a single amount,

(b) the amount is transferred in respect of the actuarial surplus under a defined benefit provision of the transferor plan;

(c) the amount is transferred directly to another registered pension plan to be held in connection with a money purchase provision of the other plan;

(d) the amount is transferred in conjunction with the transfer of other amounts from the defined benefit provision to the money purchase provision on behalf of all or a significant number of members of the transferor plan whose benefits under the defined benefit provision are replaced by benefits under the money purchase provision, and

(e) the transfer is acceptable to the Minister of Revenue of Canada for the purposes of paragraph *e* of subsection 8 of section 147.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and the Minister has so notified the administrator of the transferor plan in writing.

History: 1991, c. 25, s. 157; 2000, c. 5, s. 293; 2003, c. 2, s. 259.

Corresponding Federal Provision: 147.3(8).

Taxation of amount transferred.

965.0.13. Where an amount is transferred in accordance with sections 965.0.5 to 965.0.12, 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 reason of section 317, and

(b) no deduction may be made under any provision of this Part in computing the income of any individual in respect of the amount transferred.

History: 1991, c. 25, s. 157.

Corresponding Federal Provision: 147.3(9).

Taxation of amount transferred.

965.0.14. Where, on behalf of an individual, an amount is transferred from a registered pension plan, in this section referred to as the "transferor plan", to another registered pension plan, a registered retirement savings plan or a registered retirement income fund and the transfer is not in accordance with any of sections 965.0.5 to 965.0.11, the amount is deemed to have been paid from the transferor plan to the individual.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 301; 2000, c. 5, s. 223.

Corresponding Federal Provision: 147.3(10)(a).

Division of transferred amount.

965.0.15. Where an amount is transferred from a registered pension plan to another registered pension plan, to a registered retirement savings plan or to a registered retirement income fund, and a portion, but not all, of the amount is transferred in accordance with any of sections 965.0.5 to 965.0.12, the following rules apply:

(a) section 965.0.13 applies in respect of the portion of the amount that is transferred in accordance with any of sections 965.0.5 to 965.0.12, and

(b) section 965.0.14 applies in respect of the remainder of the amount.

History: 1991, c. 25, s. 157; 1994, c. 22, s. 302.

Corresponding Federal Provision: 147.3(11).

Amount deemed not transferred.

965.0.16. Where the transfer in a calendar year of an amount from a registered pension plan on behalf of a member of the plan would, but for this section, be in accordance with section 965.0.5 or 965.0.6 and, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the registration of the plan is revocable at the end of the year as a consequence of an excess determined under any of paragraphs *a* and *b* of subsection 8 or 9 of section 147.1 of the said Act in respect of the member, such portion of the amount transferred as may reasonably be considered to derive from amounts allocated or reallocated to the member 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 965.0.5 or 965.0.6, as the case may be, except to the extent expressly provided in writing by the Minister of Revenue of Canada for the purposes of subsection 13 of section 147.3 of the said Act.

History: 1991, c. 25, s. 157; 2000, c. 5, s. 293.

Corresponding Federal Provision: 147.3(13).

Transferred amounts deductible.

965.0.16.1. An individual may deduct, in computing his income for a taxation year, the amount deductible for the year in computing his income for the purposes of the Income

Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), under subsection 13.1 of section 147.3 of the said Act.

History: 1994, c. 22, s. 303.

Corresponding Federal Provision: 147.3(13.1).

Deemed transfer.

965.0.17. For the purposes of this chapter, where property held in connection with a particular pension plan is made available to pay benefits under another pension plan, the property is deemed to have been transferred from the particular plan to the other plan.

History: 1991, c. 25, s. 157.

Corresponding Federal Provision: 147.3(14).

Transfer of property between provisions.

965.0.17.1. Where property held in connection with a benefit provision of a registered pension plan is made available to pay benefits under another benefit provision of the plan, sections 965.0.13 to 965.0.15 apply in respect of the transaction by which the property is made so available in the same manner as they would apply if the other benefit provision were in another registered pension plan.

History: 2000, c. 5, s. 224.

Corresponding Federal Provision: 147.3(14.1).

CHAPTER IV**ACQUISITION OF AN ANNUITY CONTRACT****Registered pension plan annuity contract.**

965.0.17.2. For the purposes of this Part, the rules provided in the second paragraph apply where at any time an individual acquires, in full or partial satisfaction of the individual's entitlement to benefits under a registered pension plan, an interest in an annuity contract purchased from a licensed annuities provider and

(a) the rights provided for under the contract are not materially different from those provided for under the plan as registered;

(b) the contract does not permit premiums to be paid at or after that time, other than a premium paid at that time out of or under the plan to purchase the contract;

(c) either the plan is not a plan in respect of which the Minister of Revenue of Canada may, under subsection 11 of section 147.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), give a notice of intent to revoke the registration of the plan or the Minister of Revenue of Canada waves the application of paragraph *d* of subsection 1 of section 147.4 of that Act with respect to the contract and so notifies the administrator of the plan in writing; and

(d) the individual has not acquired the interest in the contract as a consequence of a transfer of property from the plan to a registered retirement savings plan or a registered retirement income fund.

Rules applicable.

The rules to which the first paragraph refers are as follows:

(a) the individual is deemed not to have received an amount out of or under the registered pension plan as a consequence of acquiring the interest in the annuity contract; and

(b) except for the purposes of sections 965.0.5 to 965.0.17.1, any amount received at or after the time referred to in the first paragraph by any individual under the contract is deemed to have been received under the registered pension plan.

History: 2000, c. 5, s. 224; 2010, c. 25, s. 102.

Corresponding Federal Provision: 147.4(1).

Amended contract.

965.0.17.3. For the purposes of this Part, the rules set out in the second paragraph apply where an amendment is made at any time to an annuity contract to which section 965.0.17.2 or paragraph *a* of section 2.3 applies and the rights provided for under the contract are materially altered because of the amendment, other than an amendment the sole effect of which is

(a) 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; or

(b) to enhance benefits under the annuity contract in connection with the demutualization, as defined in section 832.11, of an insurance corporation that is considered for the purposes of sections 832.11 to 832.25 to have been a party to the annuity contract.

Rules applicable.

The rules to which the first paragraph refers are the following:

(a) each individual who has an interest in the annuity contract immediately before the time referred to in the first paragraph is deemed to have received at that time an amount under a pension plan equal to the fair market value of the interest immediately before that time;

(b) the contract as amended is deemed to be a separate annuity contract issued at the time referred to in the first paragraph otherwise than pursuant to a pension plan; and

(c) each individual who has an interest in the separate annuity contract immediately after the time referred to in the first paragraph is deemed to have acquired the interest at that

time at a cost equal to the fair market value of the interest immediately after that time.

History: 2000, c. 5, s. 224; 2001, c. 53, s. 202; 2009, c. 5, s. 387.

Corresponding Federal Provision: 147.4(2).

New contract.

965.0.17.4. For the purposes of this Part, where an annuity contract, in this section referred to as the "original contract", to which section 965.0.17.2 or paragraph *a* of section 2.3 applies is, at any time, replaced by another contract, the following rules apply:

(a) the other contract is deemed to be the same contract as, and a continuation of, the original contract if the rights provided for under the other contract

i. are not materially different from those provided for under the original contract, or

ii. are materially different from those provided for under the original contract only because of an enhancement of benefits that can reasonably be considered to have been provided solely in connection with the demutualization, as defined in section 832.11, of an insurance corporation that is considered for the purposes of sections 832.11 to 832.25 to have been a party to the original contract; and

(b) in any other case, each individual who has an interest in the original contract immediately before that time is deemed to have received at that time an amount under a pension plan equal to the fair market value of the interest immediately before that time.

History: 2000, c. 5, s. 224; 2001, c. 53, s. 203.

Corresponding Federal Provision: 147.4(3).

965.0.18. (*Repealed*).

History: 1998, c. 16, s. 214; 2000, c. 5, s. 225; 2009, c. 5, s. 388.

TITLE VI.0.2

POOLED REGISTERED PENSION PLANS

**CHAPTER I
DEFINITIONS**

Definitions:

965.0.19. In this Title,

“*administrator*”;

“administrator”, of a pooled pension plan, means

(a) a corporation resident in Canada that is responsible for the administration of the plan and that is authorized under the Pooled Registered Pension Plans Act (Statutes of Canada, 2012, chapter 16) or a similar law of a province to act as an administrator for one or more pooled pension plans; or

(b) an entity designated in respect of the plan under section 21 of the Pooled Registered Pension Plans Act or any provision of a law of a province that is similar to that section;

“member”;

“member”, of a pooled pension plan, means an individual (other than a trust) who holds an account under the plan;

“pooled pension plan”;

“pooled pension plan” means a plan that is registered under the Pooled Registered Pension Plans Act or a similar law of a province;

“qualifying annuity”;

“qualifying annuity”, for an individual, means a life annuity that

(a) is payable to the individual or, where the annuity is constituted for the benefit of the individual and the individual’s spouse jointly, is payable to the individual and, on the individual’s death, to the individual’s spouse;

(b) is payable beginning no later than the later of the end of the calendar year in which the annuity is acquired and the end of the calendar year in which the individual attains 71 years of age;

(c) unless the annuity is subsequently commuted into a single payment, is payable

i. at least annually, and

ii. in equal amounts, except for an amount that is not so payable solely because of an adjustment that would, if the annuity were an annuity under a retirement savings plan, be in accordance with any of subparagraphs iii to v of paragraph b of subsection 3 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(d) if the annuity includes a guaranteed period, requires that

i. the guaranteed period not exceed 15 years, and

ii. in the event of the death of the individual and that of the individual’s spouse during the guaranteed period, any remaining amounts otherwise payable be commuted into a single payment as soon as practicable after the later death; and

(e) does not permit any premiums to be paid, other than the premium paid from the PRPP to acquire the annuity;

“qualifying survivor”;

“qualifying survivor”, in relation to a member of a PRPP, means an individual who, immediately before the death of the member

(a) was a spouse of the member; or

(b) was a child or grandchild of the member who was financially dependent on the member for support;

“single amount”;

“single amount” means an amount that is not part of a series of periodic payments;

“successor member”.

“successor member” means an individual who was the spouse of a member of a PRPP immediately before the death of the member and who acquires, as a consequence of the death, all of the member’s rights in respect of the member’s account under the PRPP.

Restriction — financially dependent.

For the purposes of the definition of “qualifying survivor” in the first paragraph, a child or grandchild of the member is presumed not to be financially dependent on the member at the time of the death of the member if the child’s or grandchild’s income, for the taxation year preceding the taxation year in which the member died, was greater than the amount determined by the formula in subsection 1.1 of section 146 of the Income Tax Act for that preceding year.

History: 2015, c. 21, s. 351; 2019, c. 14, s. 282.

Corresponding Federal Provision: 147.5(1) and 146(1.1).

**CHAPTER II
TAX**

Trust not taxable.

965.0.20. No tax is payable under this Part by a trust governed by a PRPP on its taxable income for a taxation year.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(8) before (a).

Exception to the tax exemption.

965.0.21. Despite section 965.0.20, a trust governed by a PRPP that carries on a business in a taxation year shall pay tax under this Part on the amount that would be its taxable income for the year if it had no incomes or losses from sources other than that business.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(8) before (a).

Rules of application.

965.0.22. For the purposes of section 965.0.21, the following rules apply:

(a) a capital gain or capital loss from the disposition of a property held in connection with a business is deemed to be income or a loss, as the case may be, from carrying on the business; and

(b) the trust’s income is to be computed without reference to paragraph a of section 657 and sections 666 and 668.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(8)(a) and (b).

CHAPTER III DEDUCTIONS

Employer contributions deductible.

965.0.23. There may be deducted in computing an employer's income for a taxation year, the amount that, by virtue of paragraph *q* of subsection 1 of section 20 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), is allowed as a deduction for the year in computing the employer's income for the purposes of that Act in respect of a contribution made to a PRPP.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(10).

Member contributions.

965.0.24. For the purposes of Title IV (other than sections 924.1, 931.1, 931.3 and 931.5), and paragraph *a* of sections 935.3 and 935.14, a contribution made to a pooled registered pension plan by a member of such a plan is deemed to be a premium paid by the member to a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(11).

Post-death decrease in value.

965.0.25. There may be deducted in computing the income of a member of a PRPP for the taxation year in which the member dies, an amount not exceeding the amount determined, after all amounts payable from the member's account under the PRPP have been distributed, by the formula

$A - B$.

Interpretation.

In the formula in the first paragraph,

(a) *A* is the aggregate of all amounts each of which is an amount in respect of the member's account

i. included in computing the member's income under section 965.0.28 because of the application of section 965.0.30,

ii. included in computing the income of another taxpayer under section 965.0.32 or 965.0.34, or

iii. transferred in accordance with section 965.0.35 in circumstances described in subparagraph iii of paragraph *b* of that section; and

(b) *B* is the aggregate of all distributions made from the member's account after the member's death.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(19).

Section 965.0.25 not applicable.

965.0.26. Unless the Minister has waived in writing the application of this section with respect to all or any portion of the amount determined under section 965.0.25, that section does not apply in respect of a member's account under a PRPP if the last distribution from the account was made after the end of the calendar year following the year in which the member died.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(20).

Member's account.

965.0.27. For the purposes of section 133.4, subparagraph i of paragraph *a* of the definition of "excluded right or interest" in section 785.0.1, subparagraph *d* of the first paragraph of section 890.0.1, sections 890.0.2, 913 and 924.0.1, paragraph *b* of the definition of "excluded premium" in the first paragraph of section 935.1, paragraph *c* of the definition of "excluded premium" in the first paragraph of section 935.12, the second paragraph of section 961.17 and Chapter III of Title VI.0.1, a member's account under a pooled registered pension plan is deemed to be a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(12).

CHAPTER IV AMOUNTS TO BE INCLUDED

Taxable amounts.

965.0.28. If a taxpayer is a member of a PRPP, the taxpayer shall include, in computing income for a taxation year, the aggregate of all amounts each of which is a distribution made in the year from the member's account under the PRPP, other than an amount that is

(a) included in computing the income of another taxpayer under section 965.0.29;

(b) referred to in section 965.0.36; or

(c) distributed after the death of the member.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(13) before (b).

Taxable amounts.

965.0.29. If a taxpayer is the employer of a member of a PRPP, the taxpayer shall include, in computing income for a taxation year, the aggregate of all amounts each of which is a return of contributions that is described in clause *A* of subparagraph ii of paragraph *d* of subsection 3 of section 147.5 of the Income Tax Act (Revised Statutes of Canada,

1985, chapter 1, 5th Supplement) and that is made to the taxpayer in the year.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(13)(b).

Treatment on death — no successor member.

965.0.30. If a member of a PRPP dies and there is no successor member in respect of the deceased member's account under the PRPP, an amount, equal to the amount by which the fair market value of all property held in connection with the account immediately before the death exceeds the total of all amounts distributed from the account that are described in section 965.0.32, is deemed to have been distributed from the account immediately before the death.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(14).

Treatment on death — successor member.

965.0.31. If a member of a PRPP dies and there is a successor member in respect of the deceased member's account under the PRPP, the following rules apply:

(a) the account ceases to be an account of the deceased member at the time of the death;

(b) the successor member is, after the time of the death, deemed to hold the account as a member of the PRPP; and

(c) the successor member is deemed to be a separate member in respect of any other account under the PRPP that the successor member holds.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(15).

Qualifying survivor.

965.0.32. If, as a consequence of the death of a member of a PRPP, an amount is distributed in a taxation year from the member's account under the PRPP to, or on behalf of, a qualifying survivor in relation to the member, the amount must be included in computing the qualifying survivor's income for the year, except to the extent that the amount is referred to in section 965.0.36.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(16).

Deemed distribution to qualifying survivor.

965.0.33. If an amount is distributed at a particular time from a deceased member's account under a PRPP to the member's legal representative and a qualifying survivor of the member is entitled to all or a portion of the amount in full or partial satisfaction of the qualifying survivor's rights as a beneficiary under the deceased's succession, then, for the purposes of section 965.0.32, the amount or portion of the amount, as the case may be, is deemed to have been distributed at that time from the member's account to the

qualifying survivor (and not to the legal representative) to the extent that it is so designated jointly by the legal representative and the qualifying survivor in the prescribed form filed with the Minister.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(17).

Post-death increase in value.

965.0.34. A taxpayer who is not a qualifying survivor in relation to a member of a PRPP shall include, in computing income for a taxation year, the aggregate of all amounts each of which is an amount determined by the formula

$A - B.$

Interpretation.

In the formula in the first paragraph,

(a) A is the amount of a distribution made in the year from the member's account under the PRPP as a consequence of the member's death to, or on behalf of, the taxpayer; and

(b) B is an amount designated by the administrator of the PRPP not exceeding the lesser of

i. the amount of the distribution, and

ii. the amount by which the fair market value of all property held in connection with the account immediately before the death of the member exceeds the total of

(1) the amount designated in accordance with this paragraph in respect of any prior distribution made from the account, and

(2) an amount included under section 965.0.32 in computing the income of a qualifying survivor in relation to the member.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(18).

**CHAPTER V
TRANSFERS**

Transfer of accounts.

965.0.35. An amount is transferred from a member's account under a pooled registered pension plan in accordance with this section if

(a) the amount is a single amount;

(b) the amount is transferred on behalf of an individual

i. who is the member,

ii. who is a spouse or former spouse of the member and who is entitled to the amount under a decree, order or judgment of

a competent tribunal, or under a written separation agreement, relating to a partition of property between the member and the individual, in settlement of rights arising out of, or on the breakdown of, their marriage, or

iii. who is entitled to the amount as a consequence of the death of the member and was a spouse of the member immediately before the death; and

(c) the amount is transferred directly to

i. the individual's account under the plan,

ii. another pooled registered pension plan in respect of the individual,

iii. a registered pension plan for the benefit of the individual,

iv. a registered retirement savings plan or registered retirement income fund under which the individual is the annuitant, within the meaning of paragraph *b* of section 905.1 or paragraph *d* of section 961.1.5, as the case may be, or

v. a licensed annuities provider, within the meaning of section 965.0.1, to acquire a qualifying annuity for the individual.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(21).

Taxation of transfers.

965.0.36. Where an amount is transferred in accordance with section 965.0.35 from a member's account under a PRPP on behalf of an individual, the following rules apply:

(a) the amount must not, by reason only of that transfer, be included in computing the income of the individual; and

(b) no deduction may be made in respect of the amount in computing the income of any taxpayer.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(22).

Taxation of qualifying annuity.

965.0.37. If an amount is transferred in accordance with section 965.0.35 to acquire a qualifying annuity, an individual shall include, in computing income for a taxation year under this Title and not under any other provision of this Act, any amount received by the individual during the year out of or under the annuity or as proceeds from the disposition of the annuity.

History: 2015, c. 21, s. 351.

Corresponding Federal Provision: 147.5(23).

TITLE VI.1

(Repealed).

CHAPTER I

(Repealed).

965.1. *(Repealed).*

History: 1979, c. 14, s. 4; 1981, c. 31, s. 211; 1982, c. 48, s. 341; 1983, c. 44, s. 37; 1984, c. 15, s. 212; 1984, c. 35, s. 20; 1986, c. 15, s. 135; 1987, c. 21, s. 36; 1987, c. 67, s. 175; 1988, c. 4, s. 82; 1989, c. 5, s. 159; 1990, c. 7, s. 85; 1992, c. 1, s. 87; 1993, c. 19, s. 75; 1993, c. 64, s. 97; 1995, c. 1, s. 97; 1995, c. 63, s. 99; 1996, c. 39, s. 246; 1997, c. 3, s. 43; 1997, c. 85, s. 203; 2000, c. 39, s. 105; 2001, c. 53, s. 204; 2002, c. 9, s. 28; 2002, c. 40, s. 89; 2002, c. 45, s. 521; O.C. 45-2004; 2003, c. 9, s. 123; 2004, c. 21, s. 224; 2004, c. 37, s. 90; 2005, c. 38, s. 214; 2006, c. 13, s. 71; 2017, c. 29, s. 166.

CHAPTER II

(Repealed).

965.2. *(Repealed).*

History: 1979, c. 14, s. 4; 1982, c. 48, s. 342; 1983, c. 44, s. 37; 1986, c. 15, s. 136; 1988, c. 4, s. 83; 1989, c. 5, s. 160; 1990, c. 7, s. 86; 1992, c. 1, s. 88; 1995, c. 1, s. 98; 2017, c. 29, s. 166.

965.3. *(Repealed).*

History: 1979, c. 14, s. 4; 1982, c. 48, s. 343; 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1987, c. 21, s. 37; 1995, c. 63, s. 100; 1997, c. 3, s. 71; 2005, c. 1, s. 202; 2017, c. 29, s. 166.

965.3.1. *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1987, c. 21, s. 38; 1989, c. 5, s. 161; 1997, c. 3, s. 44; 2003, c. 9, s. 124; 2017, c. 29, s. 166.

965.3.2. *(Repealed).*

History: 1987, c. 21, s. 39; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.4. *(Repealed).*

History: 1979, c. 14, s. 4; 1982, c. 26, s. 302; 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1987, c. 21, s. 40; 1995, c. 63, s. 101; 1997, c. 3, s. 71; 2003, c. 9, s. 125.

965.4.1. *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1987, c. 21, s. 41; 1989, c. 5, s. 162; 1997, c. 3, s. 71; 2003, c. 9, s. 125.

965.4.1.1. *(Repealed).*

History: 1987, c. 21, s. 42; 1997, c. 3, s. 71; 2003, c. 9, s. 125.

965.4.1.2. *(Repealed).*

History: 1987, c. 21, s. 42; 1997, c. 3, s. 71; 2003, c. 9, s. 126; 2017, c. 29, s. 166.

965.4.2. *(Repealed).*

History: 1984, c. 15, s. 213; 1984, c. 35, s. 22; 1987, c. 21, s. 43; 1997, c. 3, s. 71; 2003, c. 9, s. 126; 2017, c. 29, s. 166.

965.4.3. *(Repealed).*

History: 1984, c. 35, s. 23; 1987, c. 21, s. 43; 1990, c. 7, s. 87; 1992, c. 1, s. 89; 1997, c. 3, s. 71; 2003, c. 9, s. 127; 2017, c. 29, s. 166.

965.4.4. *(Repealed).*

History: 1984, c. 35, s. 23; 1988, c. 4, s. 84; 1990, c. 7, s. 88; 1992, c. 1, s. 90; 1993, c. 64, s. 98; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.4.4.1. *(Repealed).*

History: 1993, c. 64, s. 99; 1997, c. 3, s. 71; 1999, c. 83, s. 125; 2003, c. 9, s. 128; 2017, c. 29, s. 166.

965.4.5. *(Repealed).*

History: 1984, c. 35, s. 23; 1993, c. 64, s. 100; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.4.6. *(Repealed).*

History: 1987, c. 21, s. 44; 1997, c. 3, s. 71; 2003, c. 9, s. 129; 2017, c. 29, s. 166.

965.5. *(Repealed).*

History: 1979, c. 14, s. 4; 1981, c. 31, s. 212; 1983, c. 44, s. 37; 1987, c. 21, s. 45; 1988, c. 4, s. 85; 1992, c. 1, s. 91; 1993, c. 64, s. 101; 1997, c. 3, s. 71; 1999, c. 83, s. 126; 2000, c. 39, s. 106; 2017, c. 29, s. 166.

965.5.1. *(Repealed).*

History: 1997, c. 85, s. 204; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2002, c. 40, s. 90; 2017, c. 29, s. 166.

965.6. *(Repealed).*

History: 1979, c. 14, s. 4; 1981, c. 31, s. 213; 1982, c. 48, s. 344; 1983, c. 44, s. 37; 1984, c. 15, s. 214; 1986, c. 15, s. 137; 1988, c. 4, s. 86; 1989, c. 5, s. 163; 1990, c. 7, s. 89; 1992, c. 1, s. 92; 1993, c. 19, s. 76; 1993, c. 64, s. 102; 1997, c. 3, s. 71; 1997, c. 85, s. 205; 1999, c. 83, s. 127; 2000, c. 39, s. 107; 2003, c. 9, s. 130; 2017, c. 29, s. 166.

965.6.0.1. *(Repealed).*

History: 1987, c. 21, s. 46; 2017, c. 29, s. 166.

965.6.0.2. *(Repealed).*

History: 1987, c. 21, s. 46; 1988, c. 4, s. 87; 2017, c. 29, s. 166.

965.6.0.2.0.1. *(Repealed).*

History: 1990, c. 7, s. 90; 1997, c. 85, s. 206; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2002, c. 40, s. 91; 2017, c. 29, s. 166.

965.6.0.2.0.2. *(Repealed).*

History: 1992, c. 1, s. 93; 1993, c. 64, s. 103; 2003, c. 9, s. 131.

965.6.0.2.0.3. *(Repealed).*

History: 1993, c. 64, s. 104; 2003, c. 9, s. 131.

965.6.0.2.1. *(Repealed).*

History: 1989, c. 5, s. 164; 1992, c. 1, s. 94; 1993, c. 19, s. 77; 1997, c. 3, s. 71; 2003, c. 9, s. 132; 2017, c. 29, s. 166.

965.6.0.3. *(Repealed).*

History: 1988, c. 4, s. 87; 1989, c. 5, s. 165; 1990, c. 7, s. 91; 1991, c. 8, s. 60; 1992, c. 1, s. 95; 1993, c. 19, s. 78; 1997, c. 85, s. 207; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 166.

965.6.0.4. *(Repealed).*

History: 1991, c. 8, s. 61; 1992, c. 1, s. 96; 1993, c. 19, s. 79; 1997, c. 3, s. 45; 1997, c. 85, s. 208; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 166.

965.6.0.5. *(Repealed).*

History: 1992, c. 1, s. 97; 1997, c. 3, s. 71; 1999, c. 83, s. 128; 2000, c. 39, s. 108; 2017, c. 29, s. 166.

CHAPTER II.1*(Repealed).***965.6.1.** *(Repealed).*

History: 1986, c. 15, s. 138; 1989, c. 5, s. 166; 1990, c. 7, s. 92; 1992, c. 1, s. 98; 2017, c. 29, s. 166.

965.6.2. *(Repealed).*

History: 1986, c. 15, s. 138; 2017, c. 29, s. 166.

965.6.3. *(Repealed).*

History: 1986, c. 15, s. 138; 1992, c. 1, s. 99; 2017, c. 29, s. 166.

965.6.4. *(Repealed).*

History: 1986, c. 15, s. 138; 1992, c. 1, s. 100; 2017, c. 29, s. 166.

965.6.5. *(Repealed).*

History: 1986, c. 15, s. 138; 1992, c. 1, s. 101; 2017, c. 29, s. 166.

965.6.6. *(Repealed).*

History: 1986, c. 15, s. 138; 1992, c. 1, s. 102; 2017, c. 29, s. 166.

965.6.7. *(Repealed)*.

History: 1986, c. 15, s. 138; 1995, c. 63, s. 261; 2017, c. 29, s. 166.

CHAPTER II.2

(Repealed).

965.6.8. *(Repealed)*.

History: 1987, c. 21, s. 47; 1988, c. 4, s. 88; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.6.9. *(Repealed)*.

History: 1987, c. 21, s. 47; 1997, c. 3, s. 71; 2004, c. 21, s. 225; 2017, c. 29, s. 166.

965.6.10. *(Repealed)*.

History: 1987, c. 21, s. 47; 1990, c. 7, s. 93; 1995, c. 63, s. 102; 1997, c. 3, s. 71; 2002, c. 70, s. 185; O.C. 129-2003; 2004, c. 21, s. 225; 2017, c. 29, s. 166.

965.6.10.1. *(Repealed)*.

History: 1990, c. 7, s. 94; 1997, c. 3, s. 71; 2004, c. 21, s. 225; 2017, c. 29, s. 166.

965.6.11. *(Repealed)*.

History: 1987, c. 21, s. 47; 1990, c. 7, s. 95; 1995, c. 1, s. 99; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.6.12. *(Repealed)*.

History: 1987, c. 21, s. 47; 2017, c. 29, s. 166.

965.6.13. *(Repealed)*.

History: 1987, c. 21, s. 47; 2017, c. 29, s. 166.

965.6.14. *(Repealed)*.

History: 1987, c. 21, s. 47; 2017, c. 29, s. 166.

965.6.15. *(Repealed)*.

History: 1987, c. 21, s. 47; 1988, c. 4, s. 89; 2017, c. 29, s. 166.

965.6.16. *(Repealed)*.

History: 1987, c. 21, s. 47; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.6.17. *(Repealed)*.

History: 1987, c. 21, s. 47; 1988, c. 4, s. 90; 1992, c. 1, s. 103; 2017, c. 29, s. 166.

965.6.18. *(Repealed)*.

History: 1987, c. 21, s. 47; 1988, c. 4, s. 90; 2017, c. 29, s. 166.

965.6.19. *(Repealed)*.

History: 1987, c. 21, s. 47; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.6.20. *(Repealed)*.

History: 1987, c. 21, s. 47; 2017, c. 29, s. 166.

CHAPTER II.3

(Repealed).

965.6.21. *(Repealed)*.

History: 1988, c. 4, s. 91; 1996, c. 39, s. 247; 2017, c. 29, s. 166.

965.6.22. *(Repealed)*.

History: 1988, c. 4, s. 91; 1989, c. 5, s. 167; 2017, c. 29, s. 166.

965.6.23. *(Repealed)*.

History: 1988, c. 4, s. 91; 1989, c. 5, s. 168; 1990, c. 7, s. 96; 1992, c. 1, s. 104; 1993, c. 19, s. 80; 1997, c. 85, s. 209; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2005, c. 23, s. 128; 2017, c. 29, s. 166.

965.6.23.0.1. *(Repealed)*.

History: 2005, c. 23, s. 129; 2017, c. 29, s. 166.

965.6.23.1. *(Repealed)*.

History: 1991, c. 8, s. 62; 1992, c. 1, s. 105; 1993, c. 19, s. 81; 1997, c. 3, s. 71; 1997, c. 85, s. 210; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2002, c. 45, s. 521; O.C. 45-2004; 2003, c. 9, s. 133; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.6.24. *(Repealed)*.

History: 1988, c. 4, s. 91; 1989, c. 5, s. 169; 2017, c. 29, s. 166.

CHAPTER III

(Repealed).

965.7. *(Repealed)*.

History: 1979, c. 14, s. 4; 1983, c. 44, s. 37; 1984, c. 15, s. 215; 1985, c. 25, s. 139; 1986, c. 15, s. 139; 1987, c. 21, s. 48; 1988, c. 4, s. 92; 1997, c. 3, s. 71; 1997, c. 14, s. 160; 2002, c. 45, s. 521; O.C. 45-2004; 2003, c. 9, s. 134; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.7.1. *(Repealed)*.

History: 1987, c. 21, s. 49; 2017, c. 29, s. 166.

965.7.2. *(Repealed)*.

History: 1993, c. 19, s. 82; 2017, c. 29, s. 166.

965.8. *(Repealed)*.

History: 1979, c. 14, s. 4; 1983, c. 44, s. 37; 1990, c. 7, s. 97.

965.9. *(Repealed)*.

History: 1979, c. 14, s. 4; 1983, c. 44, s. 37; 1984, c. 15, s. 216; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 2003, c. 9, s. 135.

965.9.1. *(Repealed).*

History: 1980, c. 13, s. 95; 1983, c. 44, s. 37; 1984, c. 15, s. 217; 1988, c. 4, s. 93; 1989, c. 5, s. 170; 1990, c. 7, s. 98; 1992, c. 1, s. 106; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 2003, c. 9, s. 135.

965.9.1.0.0.1. *(Repealed).*

History: 1992, c. 1, s. 107; 2017, c. 29, s. 166.

965.9.1.0.1. *(Repealed).*

History: 1990, c. 7, s. 99; 1992, c. 1, s. 108; 1997, c. 3, s. 71; 1999, c. 83, s. 129; 2000, c. 39, s. 109; 2003, c. 9, s. 136; 2006, c. 13, s. 72; 2017, c. 29, s. 166.

965.9.1.0.2. *(Repealed).*

History: 1990, c. 7, s. 99; 1992, c. 1, s. 109; 1997, c. 3, s. 71; 1999, c. 83, s. 130; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2000, c. 39, s. 110; 2001, c. 7, s. 169; 2003, c. 9, s. 137; 2006, c. 13, s. 73; 2017, c. 29, s. 166.

965.9.1.0.3. *(Repealed).*

History: 1997, c. 85, s. 211; 2006, c. 13, s. 74; 2017, c. 29, s. 166.

965.9.1.0.4. *(Repealed).*

History: 1997, c. 85, s. 211; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2006, c. 13, s. 75; 2017, c. 29, s. 166.

965.9.1.0.4.1. *(Repealed).*

History: 1999, c. 83, s. 131; 2017, c. 29, s. 166.

965.9.1.0.4.2. *(Repealed).*

History: 1999, c. 83, s. 131; 2001, c. 7, s. 169; 2006, c. 13, s. 76; 2017, c. 29, s. 166.

965.9.1.0.4.3. *(Repealed).*

History: 1999, c. 83, s. 131; 2001, c. 7, s. 169; 2006, c. 13, s. 77; 2017, c. 29, s. 166.

965.9.1.0.5. *(Repealed).*

History: 1997, c. 85, s. 211; 1999, c. 83, s. 132; 2001, c. 7, s. 169; 2006, c. 13, s. 78; 2017, c. 29, s. 166.

965.9.1.0.6. *(Repealed).*

History: 1997, c. 85, s. 211; 1999, c. 83, s. 133; 2001, c. 7, s. 169; 2006, c. 13, s. 79; 2017, c. 29, s. 166.

965.9.1.0.7. *(Repealed).*

History: 1997, c. 85, s. 211; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 166.

965.9.1.0.8. *(Repealed).*

History: 1997, c. 85, s. 211; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 166.

965.9.1.1. *(Repealed).*

History: 1988, c. 4, s. 94; 1990, c. 7, s. 100; 1993, c. 64, s. 105; 1997, c. 3, s. 71; 1999, c. 83, s. 134; 2001, c. 7, s. 169; 2017, c. 29, s. 166.

965.9.2. *(Repealed).*

History: 1980, c. 13, s. 95; 1983, c. 44, s. 37; 1984, c. 15, s. 217; 1990, c. 7, s. 101; 1997, c. 3, s. 71; 2003, c. 9, s. 138.

965.9.3. *(Repealed).*

History: 1980, c. 13, s. 95; 1983, c. 44, s. 37; 1984, c. 15, s. 217; 1988, c. 4, s. 95; 2003, c. 9, s. 138.

965.9.4. *(Repealed).*

History: 1987, c. 21, s. 50; 1989, c. 5, s. 171; 1990, c. 7, s. 102; 1997, c. 3, s. 46; 2003, c. 9, s. 139; 2017, c. 29, s. 166.

965.9.5. *(Repealed).*

History: 1987, c. 21, s. 50; 1990, c. 7, s. 103; 2005, c. 1, s. 203; 2017, c. 29, s. 166.

965.9.5.1. *(Repealed).*

History: 1988, c. 4, s. 96; 1990, c. 7, s. 104; 1997, c. 3, s. 71; 2005, c. 1, s. 204; 2017, c. 29, s. 166.

965.9.6. *(Repealed).*

History: 1987, c. 21, s. 50; 1997, c. 3, s. 71; 1997, c. 14, s. 161; 2017, c. 29, s. 166.

965.9.7. *(Repealed).*

History: 1987, c. 21, s. 50; 1988, c. 4, s. 97; 1988, c. 64, s. 587; 1990, c. 7, s. 105; 1993, c. 16, s. 309; 1993, c. 64, s. 106; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.9.7.0.1. *(Repealed).*

History: 1990, c. 7, s. 106; 1992, c. 1, s. 110; 1997, c. 3, s. 71; 2003, c. 9, s. 140; 2017, c. 29, s. 166.

965.9.7.0.2. *(Repealed).*

History: 1990, c. 7, s. 106; 1992, c. 1, s. 111; 1997, c. 3, s. 71; 2002, c. 45, s. 521; 2003, c. 9, s. 141; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.9.7.0.3. *(Repealed).*

History: 1992, c. 1, s. 112; 1993, c. 64, s. 107; 1997, c. 3, s. 71; 2003, c. 9, s. 142.

965.9.7.0.4. *(Repealed).*

History: 1992, c. 1, s. 112; 1997, c. 3, s. 71; 2003, c. 9, s. 142.

965.9.7.0.5. *(Repealed).*

History: 1993, c. 64, s. 108; 1997, c. 3, s. 71; 2003, c. 9, s. 142.

965.9.7.0.6. *(Repealed).*

History: 1993, c. 64, s. 108; 1997, c. 3, s. 71; 2003, c. 9, s. 142.

CHAPTER III.1

(Repealed).

965.9.7.1. *(Repealed).*

History: 1989, c. 5, s. 172; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2002, c. 45, s. 521; O.C. 45-2004; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.9.7.2. *(Repealed).*

History: 1989, c. 5, s. 172; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2002, c. 45, s. 521; O.C. 45-2004; 2003, c. 9, s. 143; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.9.7.3. *(Repealed).*

History: 1989, c. 5, s. 172; 1997, c. 3, s. 71; 2002, c. 45, s. 521; O.C. 45-2004; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

CHAPTER III.2

(Repealed).

965.9.8. *(Repealed).*

History: 1988, c. 4, s. 97; 1989, c. 5, s. 173; 1990, c. 7, s. 107; 1991, c. 8, s. 63; 1993, c. 19, s. 83; 1995, c. 1, s. 100; 2017, c. 29, s. 166.

CHAPTER III.3

(Repealed).

965.9.8.1. *(Repealed).*

History: 1992, c. 1, s. 113; 1993, c. 19, s. 84; 1993, c. 64, s. 109; 1995, c. 1, s. 101; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 1997, c. 14, s. 162; 1997, c. 85, s. 212; 2017, c. 29, s. 166.

965.9.8.2. *(Repealed).*

History: 1992, c. 1, s. 113; 1997, c. 3, s. 71; 1999, c. 83, s. 135; 2001, c. 7, s. 169; 2017, c. 29, s. 166.

965.9.8.2.1. *(Repealed).*

History: 1993, c. 19, s. 85; 2017, c. 29, s. 166.

965.9.8.3. *(Repealed).*

History: 1992, c. 1, s. 113; 2017, c. 29, s. 166.

965.9.8.4. *(Repealed).*

History: 1992, c. 1, s. 113; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.9.8.5. *(Repealed).*

History: 1992, c. 1, s. 113; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.9.8.6. *(Repealed).*

History: 1992, c. 1, s. 113; 2005, c. 1, s. 205; 2017, c. 29, s. 166.

965.9.8.7. *(Repealed).*

History: 1992, c. 1, s. 113; 1997, c. 3, s. 71; 2005, c. 1, s. 206; 2017, c. 29, s. 166.

965.9.8.8. *(Repealed).*

History: 1992, c. 1, s. 113; 2017, c. 29, s. 166.

965.9.8.9. *(Repealed).*

History: 1992, c. 1, s. 113; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.9.8.10. *(Repealed).*

History: 1993, c. 64, s. 110; 1995, c. 1, s. 102; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

CHAPTER IV

(Repealed).

965.10. *(Repealed).*

History: 1979, c. 14, s. 4; 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1987, c. 21, s. 51; 1988, c. 4, s. 98; 1990, c. 7, s. 108; 1992, c. 1, s. 114; 1993, c. 64, s. 111; 1995, c. 63, s. 103; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 136; 2000, c. 39, s. 111; 2001, c. 7, s. 169; 2004, c. 21, s. 226; 2017, c. 29, s. 166.

965.10.1. *(Repealed).*

History: 1984, c. 15, s. 218; 1984, c. 35, s. 24; 1986, c. 15, s. 140; 1987, c. 21, s. 52; 1995, c. 63, s. 104; 1997, c. 3, s. 71; 2003, c. 9, s. 144; 2017, c. 29, s. 166.

965.10.1.1. *(Repealed).*

History: 1990, c. 7, s. 109; 1992, c. 1, s. 115; 1995, c. 1, s. 103; 1995, c. 63, s. 105; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.10.1.2. *(Repealed).*

History: 2004, c. 21, s. 227; 2017, c. 29, s. 166.

965.10.1.3. *(Repealed).*

History: 2004, c. 21, s. 227; 2017, c. 29, s. 166.

965.10.2. *(Repealed).*

History: 1987, c. 21, s. 53; 1997, c. 3, s. 71; 1999, c. 83, s. 137; 2000, c. 39, s. 112; 2001, c. 7, s. 169; 2004, c. 21, s. 228; 2017, c. 29, s. 166.

965.10.3. *(Repealed).*

History: 1992, c. 1, s. 116; 1997, c. 3, s. 71; 1999, c. 83, s. 138; 2000, c. 39, s. 113; 2001, c. 7, s. 169; 2004, c. 21, s. 229; 2017, c. 29, s. 166.

965.10.3.1. *(Repealed).*

History: 1997, c. 14, s. 163; 1999, c. 83, s. 139; 2000, c. 39, s. 114; 2001, c. 7, s. 169; 2004, c. 21, s. 230; 2017, c. 29, s. 166.

965.10.3.2. *(Repealed).*

History: 1997, c. 14, s. 163; 1999, c. 83, s. 140; 2000, c. 39, s. 115; 2001, c. 7, s. 169; 2004, c. 21, s. 231; 2017, c. 29, s. 166.

965.10.4. *(Repealed).*

History: 2002, c. 9, s. 29; 2004, c. 21, s. 232; 2017, c. 29, s. 166.

965.11. *(Repealed).*

History: 1979, c. 14, s. 4; 1983, c. 44, s. 37; 1987, c. 21, s. 54; 1988, c. 64, s. 587; 1990, c. 7, s. 110; 1993, c. 16, s. 310; 1993, c. 64, s. 112; 1995, c. 49, s. 220; 1997, c. 3, s. 71; 1997, c. 14, s. 164; 1999, c. 83, s. 141; 2017, c. 29, s. 166.

965.11.1. *(Repealed).*

History: 1986, c. 15, s. 141; 1988, c. 4, s. 99; 1990, c. 7, s. 111; 1992, c. 1, s. 117; 1995, c. 63, s. 106; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.2. *(Repealed).*

History: 1986, c. 15, s. 141; 1990, c. 7, s. 112; 1992, c. 1, s. 118; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.3. *(Repealed).*

History: 1986, c. 15, s. 141; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.4. *(Repealed).*

History: 1986, c. 15, s. 141; 1987, c. 21, s. 55; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.5. *(Repealed).*

History: 1987, c. 21, s. 56; 1988, c. 4, s. 100; 1990, c. 7, s. 113; 1992, c. 1, s. 119; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 142; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2000, c. 39, s. 116; 2001, c. 7, s. 169; 2004, c. 21, s. 233; 2017, c. 29, s. 166.

965.11.6. *(Repealed).*

History: 1987, c. 21, s. 56; 1990, c. 7, s. 114; 1992, c. 1, s. 120; 1997, c. 3, s. 71; 2004, c. 21, s. 234; 2017, c. 29, s. 166.

965.11.7. *(Repealed).*

History: 1987, c. 21, s. 56; 1990, c. 7, s. 115; 1992, c. 1, s. 121; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.7.1. *(Repealed).*

History: 1988, c. 4, s. 101; 1988, c. 41, s. 89; 1992, c. 1, s. 122; 1994, c. 16, s. 51; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 31, s. 89; 1997, c. 85, s. 213; 1999, c. 8, s. 20; 2003, c. 29, s. 135; O.C. 222-2004; 2006, c. 8, s. 31; 2017, c. 29, s. 166.

965.11.8. *(Repealed).*

History: 1987, c. 21, s. 56; 1988, c. 4, s. 102; 1997, c. 3, s. 71; 2003, c. 9, s. 145.

965.11.9. *(Repealed).*

History: 1987, c. 21, s. 56; 1988, c. 4, s. 102; 1997, c. 3, s. 71; 2003, c. 9, s. 145.

965.11.9.1. *(Repealed).*

History: 1989, c. 5, s. 174; 1997, c. 3, s. 71; 2003, c. 9, s. 145.

965.11.10. *(Repealed).*

History: 1987, c. 21, s. 56; 1988, c. 4, s. 103.

965.11.11. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 1997, c. 85, s. 214; 2017, c. 29, s. 166.

965.11.12. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.13. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 1997, c. 85, s. 215; 2017, c. 29, s. 166.

965.11.14. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.15. *(Repealed).*

History: 1988, c. 4, s. 104; 2017, c. 29, s. 166.

965.11.16. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.17. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 1997, c. 85, s. 216; 2017, c. 29, s. 166.

965.11.18. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.19. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.19.1. *(Repealed).*

History: 1989, c. 5, s. 175; 1997, c. 3, s. 71; 1997, c. 85, s. 217; 2017, c. 29, s. 166.

965.11.19.2. *(Repealed).*

History: 1989, c. 5, s. 175; 1997, c. 3, s. 71; 1997, c. 85, s. 218; 2017, c. 29, s. 166.

965.11.19.3. *(Repealed).*

History: 1989, c. 5, s. 175; 1997, c. 3, s. 71; 2003, c. 9, s. 146; 2017, c. 29, s. 166.

965.11.19.4. *(Repealed).*

History: 2003, c. 9, s. 147; 2004, c. 21, s. 235; 2017, c. 29, s. 166.

965.11.20. *(Repealed).*

History: 1988, c. 4, s. 104; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.11.21. *(Repealed).*

History: 2002, c. 40, s. 92; 2017, c. 29, s. 166.

965.12. *(Repealed).*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 142; 1990, c. 7, s. 116.

CHAPTER V
*(Repealed).***965.13.** *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1987, c. 21, s. 57; 1989, c. 5, s. 176; 1990, c. 7, s. 117; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.14. *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.15. *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 35, s. 21; 1988, c. 4, s. 105; 1989, c. 5, s. 177; 1990, c. 7, s. 118; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.16. *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 35, s. 25; 1988, c. 4, s. 106; 1989, c. 5, s. 178; 1990, c. 7, s. 119; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.16.0.1. *(Repealed).*

History: 1987, c. 21, s. 58; 1988, c. 4, s. 107; 1989, c. 5, s. 179; 1990, c. 7, s. 120; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.16.0.2. *(Repealed).*

History: 1988, c. 4, s. 108; 1989, c. 5, s. 180; 1990, c. 7, s. 121; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.16.1. *(Repealed).*

History: 1983, c. 44, s. 37; 1984, c. 15, s. 219; 1984, c. 35, s. 26; 1986, c. 15, s. 143; 1987, c. 21, s. 59; 1988, c. 4, s. 109; 1990, c. 7, s. 122; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

965.17. *(Repealed).*

History: 1983, c. 44, s. 37; 1990, c. 7, s. 123; 1997, c. 3, s. 71; 1997, c. 14, s. 165; 2003, c. 9, s. 148.

965.17.1. *(Repealed).*

History: 1992, c. 1, s. 123; 1997, c. 3, s. 71; 2003, c. 9, s. 148.

CHAPTER V.1
*(Repealed).***965.17.2.** *(Repealed).*

History: 1992, c. 1, s. 123; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 143; 2000, c. 39, s. 117; 2001, c. 7, s. 169; 2002, c. 9, s. 30; 2003, c. 9, s. 149; 2004, c. 21, s. 236; 2017, c. 29, s. 166.

965.17.3. *(Repealed).*

History: 1992, c. 1, s. 123; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 144; 2002, c. 9, s. 31; 2017, c. 29, s. 166.

965.17.3.1. *(Repealed).*

History: 1999, c. 83, s. 145; 2001, c. 7, s. 169; 2002, c. 9, s. 32; 2017, c. 29, s. 166.

965.17.3.2. *(Repealed).*

History: 1999, c. 83, s. 145; 2002, c. 9, s. 33; 2017, c. 29, s. 166.

965.17.3.3. *(Repealed).*

History: 2002, c. 9, s. 34; 2004, c. 21, s. 237; 2017, c. 29, s. 166.

965.17.4. *(Repealed).*

History: 1992, c. 1, s. 123; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.17.4.1. *(Repealed).*

History: 1997, c. 14, s. 166; 1999, c. 83, s. 146; 2002, c. 9, s. 35; 2017, c. 29, s. 166.

965.17.5. *(Repealed).*

History: 1992, c. 1, s. 123; 1997, c. 3, s. 71; 1999, c. 83, s. 147; 2002, c. 9, s. 36; 2017, c. 29, s. 166.

965.17.5.1. *(Repealed).*

History: 1997, c. 14, s. 167; 1999, c. 83, s. 148; 2002, c. 9, s. 37; 2017, c. 29, s. 166.

965.17.5.2. *(Repealed).*

History: 2002, c. 9, s. 38; 2004, c. 21, s. 238; 2017, c. 29, s. 166.

965.17.6. *(Repealed).*

History: 1992, c. 1, s. 123; 1993, c. 64, s. 113.

CHAPTER VI*(Repealed)***965.18.** *(Repealed)*

History: 1983, c. 44, s. 37; 1988, c. 4, s. 110; 1989, c. 5, s. 181; 1990, c. 7, s. 124; 1992, c. 1, s. 124; 1995, c. 1, s. 104; 2017, c. 29, s. 166.

965.19. *(Repealed)*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 144; 1988, c. 4, s. 110; 1989, c. 5, s. 182; 2003, c. 9, s. 150; 2017, c. 29, s. 166.

965.19.1. *(Repealed)*

History: 1986, c. 15, s. 144; 1988, c. 4, s. 110; 1989, c. 5, s. 183; 1990, c. 7, s. 125; 1992, c. 1, s. 125; 1993, c. 19, s. 86; 2003, c. 9, s. 151.

965.19.1.1. *(Repealed)*

History: 1989, c. 5, s. 184; 1997, c. 3, s. 71; 2003, c. 9, s. 151.

965.19.2. *(Repealed)*

History: 1986, c. 15, s. 144; 1987, c. 21, s. 60; 1989, c. 5, s. 185; 1990, c. 7, s. 126; 1992, c. 1, s. 126; 2003, c. 9, s. 152; 2017, c. 29, s. 166.

CHAPTER VII*(Repealed)***965.20.** *(Repealed)*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 145; 1987, c. 21, s. 61; 1988, c. 4, s. 111; 1990, c. 7, s. 127; 1992, c. 1, s. 127; 1995, c. 1, s. 105; 2017, c. 29, s. 166.

965.20.1. *(Repealed)*

History: 1984, c. 35, s. 27; 1986, c. 15, s. 146; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.20.1.1. *(Repealed)*

History: 1988, c. 4, s. 112; 1992, c. 1, s. 128; 1995, c. 63, s. 261; 2017, c. 29, s. 166.

965.20.2. *(Repealed)*

History: 1986, c. 15, s. 147; 1997, c. 3, s. 71; 2017, c. 29, s. 166.

965.20.2.1. *(Repealed)*

History: 1992, c. 1, s. 129; 1995, c. 63, s. 261; 2017, c. 29, s. 166.

CHAPTER VIII*(Repealed)***965.21.** *(Repealed)*

History: 1983, c. 44, s. 37; 1985, c. 25, s. 140; 1987, c. 67, s. 176; 1992, c. 1, s. 130; 2005, c. 23, s. 130; 2017, c. 29, s. 166.

965.22. *(Repealed)*

History: 1983, c. 44, s. 37; 1984, c. 15, s. 220; 1989, c. 5, s. 186; 1990, c. 59, s. 329; 1992, c. 1, s. 131; 1997, c. 14, s. 168; 1997, c. 85, s. 219; 2003, c. 9, s. 153; 2017, c. 29, s. 166.

965.23. *(Repealed)*

History: 1983, c. 44, s. 37; 1992, c. 1, s. 132; 2017, c. 29, s. 166.

965.23.0.1. *(Repealed)*

History: 1997, c. 85, s. 220; 1999, c. 83, s. 149; 2017, c. 29, s. 166.

965.23.1. *(Repealed)*

History: 1991, c. 8, s. 64; 1992, c. 1, s. 133; 1997, c. 85, s. 221; 2017, c. 29, s. 166.

965.23.1.0.1. *(Repealed)*

History: 1997, c. 85, s. 222; 1999, c. 83, s. 150; 2017, c. 29, s. 166.

965.23.1.1. *(Repealed)*

History: 1992, c. 1, s. 134; 1997, c. 3, s. 71; 1997, c. 85, s. 223.

965.23.1.2. *(Repealed)*

History: 1992, c. 1, s. 134; 1997, c. 3, s. 71; 2003, c. 9, s. 154.

965.23.1.3. *(Repealed)*

History: 1992, c. 1, s. 134; 1997, c. 3, s. 71; 2003, c. 9, s. 154.

965.24. *(Repealed)*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 148.

CHAPTER VIII.1*(Repealed)***965.24.1.** *(Repealed)*

History: 1988, c. 4, s. 113; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 166.

965.24.1.1. *(Repealed)*

History: 1990, c. 7, s. 128; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 166.

965.24.1.2. *(Repealed)*

History: 1992, c. 1, s. 135; 1997, c. 3, s. 71; 2003, c. 9, s. 155; 2017, c. 29, s. 166.

965.24.1.2.1. *(Repealed)*

History: 1997, c. 85, s. 224; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 166.

965.24.1.2.1.1. *(Repealed)*

History: 1999, c. 83, s. 151; 2001, c. 7, s. 169; 2017, c. 29, s. 166.

965.24.1.3. *(Repealed).*

History: 1992, c. 1, s. 135; 1997, c. 3, s. 71; 2003, c. 9, s. 156; 2017, c. 29, s. 166.

965.24.1.4. *(Repealed).*

History: 1997, c. 85, s. 225; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 166.

965.24.2. *(Repealed).*

History: 1990, c. 7, s. 128; 1992, c. 1, s. 136; 1993, c. 64, s. 114; 1997, c. 3, s. 71; 2002, c. 45, s. 521; 2003, c. 9, s. 157; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.24.3. *(Repealed).*

History: 1990, c. 7, s. 128; 1997, c. 3, s. 71; 2003, c. 9, s. 158; 2017, c. 29, s. 166.

CHAPTER IX

(Repealed).

965.25. *(Repealed).*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 149; 1990, c. 7, s. 129; 2017, c. 29, s. 166.

965.26. *(Repealed).*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 149; 1987, c. 21, s. 62; 1989, c. 5, s. 187; 1990, c. 7, s. 130; 1992, c. 1, s. 137; 1997, c. 3, s. 71; 1997, c. 85, s. 226; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 166.

965.26.0.1. *(Repealed).*

History: 1989, c. 5, s. 188; 2017, c. 29, s. 166.

965.26.1. *(Repealed).*

History: 1988, c. 4, s. 114; 2017, c. 29, s. 166.

965.26.2. *(Repealed).*

History: 1988, c. 4, s. 114; 2017, c. 29, s. 166.

965.27. *(Repealed).*

History: 1983, c. 44, s. 37; 1986, c. 15, s. 149; 1988, c. 4, s. 115; 1990, c. 7, s. 131; 2002, c. 9, s. 39; 2017, c. 29, s. 166.

965.28. *(Repealed).*

History: 1984, c. 15, s. 221; 1990, c. 7, s. 132; 1997, c. 3, s. 71; 2003, c. 9, s. 159.

965.28.1. *(Repealed).*

History: 1990, c. 7, s. 133; 1992, c. 1, s. 138; 1997, c. 3, s. 71; 2002, c. 45, s. 521; O.C. 45-2004; 2003, c. 9, s. 160; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

965.28.2. *(Repealed).*

History: 1990, c. 7, s. 133; 1997, c. 3, s. 71; 2002, c. 45, s. 521; O.C. 45-2004; 2004, c. 37, s. 90; 2017, c. 29, s. 166.

TITLE VI.2**QUÉBEC BUSINESS INVESTMENT COMPANIES****CHAPTER I****INTERPRETATION****Definitions:**

965.29. In this Title, the expression

“common share with full voting rights”;

(a) “common share with full voting rights” means a common share with full voting rights within the meaning of the Act respecting Québec business investment companies (chapter S-29.1);

(b) *(paragraph repealed);*

(b.0.1) *(paragraph repealed);*

“financial commitment”;

(b.1) “financial commitment” means the financial commitment of a shareholder of a Québec business investment company as determined under section 965.31.2;

“additional interest in respect of a qualified investment”;

(b.2) “additional interest in respect of a qualified investment” of a shareholder means the aggregate, in respect of a qualified investment, of all amounts each of which corresponds to,

i. except in the case referred to in subparagraph ii, such part of the portion attributable to the qualified investment of the amount renounced by a Québec business investment company under section 965.31.5 in respect of a share issue the proceeds of which have been used to make the qualified investment as is represented by the proportion, immediately before the time the qualified investment was made by the Québec business investment company, that the paid-up capital of the common shares with full voting rights of the share capital of the Québec business investment company beneficially owned by the shareholder is of the total paid-up capital of all issued and paid-up common shares with full voting rights of the share capital of the Québec business investment company, or

ii. where a Québec business investment company allocates to a shareholder it selects, as additional participation in respect of the qualified investment, all or part of the portion attributable to the qualified investment of the amount renounced by it under section 965.31.5 in respect of a share issue the proceeds of which have been used to make the qualified investment, the amount accepted as such in respect of the shareholder by the body designated under section 1 of the Act respecting Québec business investment companies;

“interest in a qualified investment”;

(c) “interest in a qualified investment” of a shareholder means the portion of a qualified investment of a Québec business investment company represented by the proportion, immediately before the time the qualified investment is made by the Québec business investment company, that the paid-up capital of the common shares with full voting rights of the share capital of the Québec business investment company beneficially owned by the shareholder is of the total paid-up capital of all issued and paid-up common shares with full voting rights of the share capital of the Québec business investment company except, where the Québec business investment company allocates to a shareholder it selects all or part of the qualified investment as participation in the qualified investment, the amount accepted as such in respect of the shareholder by the body designated under section 1 of the Act respecting Québec business investment companies;

“adjusted interest in a qualified investment”;

(c.1) “adjusted interest in a qualified investment” means the adjusted interest in a qualified investment as determined under section 965.31.1;

“unused adjusted qualified investment deduction”;

(c.2) “unused adjusted qualified investment deduction” means the unused adjusted qualified investment deduction as determined under sections 965.30 and 965.31;

“qualified investment”;

(d) “qualified investment” means an investment made by a Québec business investment company in accordance with the Act respecting Québec business investment companies;

(d.1) *(paragraph repealed)*;

“total income”;

(e) “total income” means the total income of an individual as defined in paragraph *j* of section 965.1, as it read before being repealed;

(e.1) *(paragraph repealed)*;

“Québec business investment company”.

(f) “Québec business investment company” means a corporation described in section 1 of the Act respecting Québec business investment companies whose registration as such is in force.

History: 1986, c. 15, s. 150; 1987, c. 21, s. 63; 1988, c. 4, s. 116; 1990, c. 7, s. 134; 1992, c. 1, s. 139; 1993, c. 64, s. 115; 1997, c. 3, s. 47; 1997, c. 14, s. 169; 1998, c. 17, s. 64; 1999, c. 83, s. 152; 2001, c. 69, s. 12; 2002, c. 40, s. 93; 2010, c. 37, s. 107; 2017, c. 29, s. 167.

CHAPTER II GENERAL PROVISIONS

Unused adjusted qualified investment deduction of an individual.

965.30. The unused adjusted qualified investment deduction of an individual for a taxation year is the amount by which the aggregate of the amounts which represent his adjusted interest in a qualified investment for each of the preceding five taxation years exceeds the aggregate of the amounts deducted under this Title for the said preceding taxation years in respect of those amounts.

History: 1986, c. 15, s. 150; 1987, c. 21, s. 64; 1990, c. 7, s. 135; 1993, c. 64, s. 116; 1997, c. 14, s. 290.

965.31. (Repealed).

History: 1986, c. 15, s. 150; 1987, c. 21, s. 64; 1989, c. 5, s. 189; 1990, c. 7, s. 136; 1993, c. 64, s. 116; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1999, c. 83, s. 153.

Adjusted interest in a qualified investment.

965.31.1. The adjusted interest in a qualified investment of a taxpayer is an amount equal to,

(a) in the case of a qualified investment made before 2 May 1986, 100% of the amount of his or its interest in the qualified investment;

(b) in the case of a qualified investment made during the period extending from 1 May 1986 to 16 May 1989 by a Québec business investment company other than such a corporation referred to in paragraph *c*, *d* or *e*, 100% of the amount of his or its interest in the qualified investment without exceeding 100% of the amount of his or its financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(c) in the case of a qualified investment made during the period extending from 1 May 1986 to 16 May 1989 by a Québec business investment company referred to in section 4.1 of the Act respecting Québec business investment companies (chapter S-29.1), 125% of the amount of his or its interest in the qualified investment without exceeding 125% of the amount of his or its financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(d) in the case of a qualified investment made during the period extending from 12 May 1988 to 16 May 1989 by a Québec business investment company referred to in section 4.2 of the Act respecting Québec business investment companies, as it read immediately before its repeal, 125% of the amount of his or its interest in the qualified investment without exceeding 125% of the amount of his or its financial

commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(e) in the case of a qualified investment made during the period extending from 12 May 1988 to 16 May 1989 by a Québec business investment company referred to in section 4.3 of the Act respecting Québec business investment companies, as it read immediately before its repeal, 150% of the amount of his or its interest in the qualified investment without exceeding 150% of the amount of his or its financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(f) in the case of a qualified investment referred to in section 12.2 of the Act respecting Québec business investment companies and made during the period extending from 17 May 1989 to 2 May 1991 by a Québec business investment company referred to in section 4 of the said Act, 100% of the amount of the taxpayer's interest in the qualified investment without exceeding 100% of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(g) in the case of a qualified investment referred to in section 12.2 of the Act respecting Québec business investment companies and made during the period extending from 17 May 1989 to 2 May 1991 by a Québec business investment company referred to in section 4.1 of the said Act, 125% of the amount of the taxpayer's interest in the qualified investment without exceeding 125% of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(h) in the case of a qualified investment referred to in section 12.3 of the Act respecting Québec business investment companies and made during the period extending from 17 May 1989 to 2 May 1991 by a Québec business investment company referred to in section 4 of the said Act, 125% of the amount of the taxpayer's interest in the qualified investment without exceeding 125% of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(i) in the case of a qualified investment referred to in section 12.3 of the Act respecting Québec business investment companies and made during the period extending from 17 May 1989 to 2 May 1991 by a Québec business investment company referred to in section 4.1 of the said Act, 150% of the amount of the taxpayer's interest in the

qualified investment without exceeding 150% of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(j) in the case of a qualified investment referred to in section 12.2 of the Act respecting Québec business investment companies and made during the period from 3 May 1991 to 31 March 1998 by a Québec business investment company referred to in section 4 of the said Act, 100%, where the taxpayer is a corporation, or 125%, where the taxpayer is an individual, of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 100%, where the taxpayer is a corporation, or 125%, where the taxpayer is an individual, of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(k) in the case of a qualified investment referred to in section 12.2 of the Act respecting Québec business investment companies and made during the period from 3 May 1991 to 31 March 1998 by a Québec business investment company referred to in section 4.1 of the said Act, 125%, where the taxpayer is a corporation, or 150%, where the taxpayer is an individual, of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 125%, where the taxpayer is a corporation, or 150%, where the taxpayer is an individual, of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(l) in the case of a qualified investment referred to in section 12.3 of the Act respecting Québec business investment companies and made during the period from 3 May 1991 to 31 March 1998 by a Québec business investment company referred to in section 4 of the said Act, 125%, where the taxpayer is a corporation, or 150%, where the taxpayer is an individual, of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 125%, where the taxpayer is a corporation, or 150%, where the taxpayer is an individual, of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(m) in the case of a qualified investment referred to in section 12.3 of the Act respecting Québec business

investment companies and made during the period from 3 May 1991 to 31 March 1998 by a Québec business investment company referred to in section 4.1 of the said Act, 150%, where the taxpayer is a corporation, or 175%, where the taxpayer is an individual, of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 150%, where the taxpayer is a corporation, or 175%, where the taxpayer is an individual, of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(n) in the case of a qualified investment made during the period from 1 April 1998 to 29 March 2001 by a Québec business investment company, 150% of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 150% of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment;

(o) in the case of a qualified investment made after 29 March 2001 by a Québec business investment company in a corporation referred to in the third paragraph of section 12 of the Act respecting Québec business investment companies whose assets referred to in subparagraph 2 of that paragraph are under \$25,000,000, 150% of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 150% of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment; and

(p) in the case of a qualified investment made after 29 March 2001 by a Québec business investment company in a corporation referred to in the third paragraph of section 12 of the Act respecting Québec business investment companies whose assets referred to in subparagraph 2 of that paragraph are \$25,000,000 or over, 125% of the aggregate of the amount of the taxpayer's interest in the qualified investment and the amount of the taxpayer's additional interest in respect of the qualified investment, without exceeding 125% of the amount of the taxpayer's financial commitment in respect of the Québec business investment company determined immediately before the time the Québec business investment company makes the qualified investment.

History: 1987, c. 21, s. 64; 1989, c. 5, s. 190; 1990, c. 7, s. 137; 1992, c. 1, s. 140; 1997, c. 3, s. 71; 1999, c. 83, s. 154; 2002, c. 40, s. 94.

Financial commitment of a shareholder of a QBIC.

965.31.2. The financial commitment of a shareholder of a Québec business investment company, at a particular time, is equal to the amount by which the aggregate of amounts representing the total of his interest in and additional interest in respect of a qualified investment made by the Québec business investment company before that time and held by it at that time is exceeded by the aggregate of

(a) the lesser of the paid-up capital represented by the shares of the capital stock of the Québec business investment company held by the shareholder at that time as the actual owner thereof and the cost to the shareholder of those shares determined without taking into account the borrowing costs or other costs related to the acquisition thereof or of the custody fees;

(b) the amount of the loans and advances that are due to the shareholder, at that time, by the Québec business investment company; and

(c) the percentage of the surpluses of the Québec business investment company, other than a property revaluation surplus, 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, for its last taxation year ended before that time and adjusted to take into account any gain or loss realized, from the end of the said taxation year until the particular time, as a result of the disposition by the Québec business investment company of a qualified investment, equal to the percentage of the interest in the surpluses, taking into account the rights of the other shareholders, of the shares held by the shareholder at that time as the actual owner thereof.

Amounts.

Notwithstanding the foregoing, in no case may the aggregate of the amount determined under subparagraphs *a* to *c* of the first paragraph be less than the cost to the shareholder of the shares of the capital stock of the Québec business investment company held by him at that time as the actual owner thereof without taking into account the borrowing costs or other costs related to the acquisition thereof or of the custody fees.

History: 1987, c. 21, s. 64; 1992, c. 1, s. 141; 1995, c. 63, s. 107.

Acquisition of a share by succession or will.

965.31.3. In this Title, where an individual acquires by succession or will a share of a Québec business investment company, the following rules apply:

(a) the cost to the individual of the share is deemed to be equal to the cost to the deceased shareholder of the share determined without taking into account the borrowing costs

and other costs related to the acquisition thereof or the custody fees;

(b) the individual's interest in and additional interest in respect of a qualified investment that is made by the Québec business investment company after the death of the shareholder but before the time the share is allocated or transferred to the individual, are deemed to be an interest of the individual in and an additional interest of the individual in respect of a qualified investment for the year in which the share is allocated or transferred to the individual and not to be an interest of the individual in and an additional interest of the individual in respect of a qualified investment for the year in which the Québec business investment company makes the qualified investment.

History: 1989, c. 5, s. 191; 1992, c. 1, s. 142; 1997, c. 3, s. 71; 1999, c. 83, s. 155.

Share owned by a trust governed by an RRSP or RRIF.

965.314. For the purposes of this Title, where, at any time, a trust governed by a registered retirement savings plan or a registered retirement income fund, of the type commonly called self-directed, holds as actual owner a common share with full voting rights of the capital stock of a Québec business investment company, the following rules apply:

(a) the annuitant, within the meaning of paragraph *b* of section 905.1 or paragraph *d* of section 961.1.5, as the case may be, under the plan or fund at that time is deemed to be the shareholder holding the share at that time as the actual owner thereof and the trust is deemed not to be that shareholder;

(b) the cost of the share referred to in section 965.31.2 to the annuitant referred to in paragraph *a* is deemed to be the same as the cost thereof to the trust;

(c) loans and advances due to the trust at that time by the Québec business investment company are deemed to be due at that time by the latter to the annuitant referred to in paragraph *a* and not to the trust;

(d) investments referred to in section 965.34 of the trust in the Québec business investment company are deemed to be investments of the annuitant referred to in paragraph *a* and not those of the trust.

History: 1991, c. 8, s. 65.

CHAPTER II.1 RENUNCIATION

Renunciation in respect of issue expenses.

965.315. Where a Québec business investment company makes a share issue in respect of which a prospectus or offering memorandum was filed with the Autorité des marchés financiers and the receipt for the final prospectus or the exemption from filing a prospectus was granted after

2 May 1991, it may renounce, in respect of the share issue, an amount not exceeding the lesser of

(a) the aggregate of the expenses incurred by the Québec business investment company, in the course of the issue, at or before the time the renunciation is made and, where such is the case, the reasonable additional expenses it expects to incur after that time in the course of the share issue, and

(b) 15% of the aggregate of the proceeds of the share issue at or before the time the renunciation is made and, where such is the case, the additional proceeds the Québec business investment company expects to receive for the additional shares it intends to issue after that time as part of the share issue.

Renunciation attributable to a qualified investment.

Where a Québec business investment company makes a qualified investment after 2 May 1991 wholly or partially out of the proceeds of a share issue referred to in the first paragraph, the portion of the amount, referred to in this paragraph as the "particular amount", renounced by it under the first paragraph in respect of the share issue, represented by the proportion that the amount of such portion of the qualified investment as may reasonably be considered to have been made out of the proceeds of the share issue is of the amount by which the aggregate referred to in subparagraph *b* of the first paragraph in respect of the share issue exceeds the particular amount, is deemed, for the purposes of paragraph *b.2* of section 965.29, to be attributable to the qualified investment.

Validity of the renunciation.

Any renunciation made by a Québec business investment company under the first paragraph in respect of a share issue is valid only if it is made, in prescribed form, on or before the earlier of the last day of its fiscal period in which the share issue commenced and 31 December in the calendar year in which the share issue commenced.

History: 1992, c. 1, s. 143; 2002, c. 45, s. 521; O.C. 45-2004; 2004, c. 37, s. 90.

Restrictions.

965.316. A Québec business investment company may renounce an amount under section 965.31.5 in respect of an expense

(a) on the one hand, only if the expense is an expense that would be deductible under section 147, but for the second paragraph thereof and section 147.1, in computing the income of the Québec business investment company for any taxation year; and

(b) on the other hand, only to the extent that the Québec business investment company has not deducted the expense in computing its income for any taxation year preceding the year in which the renunciation is made, has not been or

cannot reasonably expect to be reimbursed for the expense, has not received or cannot reasonably expect to receive government assistance or non-government assistance, within the meanings assigned by the first paragraph of section 1029.6.0.0.1, in respect of the expense, and has not transferred to another person its right to such a reimbursement or such assistance.

History: 1992, c. 1, s. 143; 1993, c. 64, s. 117; 2004, c. 21, s. 239.

CHAPTER III DEDUCTIONS

Deduction by an individual.

965.32. An individual, other than a trust, who is resident in Québec on 31 December of a year may deduct in computing his taxable income for that year an amount not exceeding the sum of the aggregate of the amounts representing his adjusted interest in a qualified investment for the year and the unused portion of his deduction relating to an adjusted interest in a qualified investment for the year.

Maximum amount.

However, the amount of the deduction provided for in the first paragraph shall not exceed 30% of the individual's total income for the year.

History: 1986, c. 15, s. 150; 1987, c. 21, s. 65; 1990, c. 7, s. 138; 1993, c. 64, s. 118.

965.33. *(Repealed).*

History: 1986, c. 15, s. 150; 1987, c. 21, s. 66; 1989, c. 5, s. 192; 1990, c. 7, s. 139; 1993, c. 19, s. 87; 1993, c. 64, s. 119; 1997, c. 3, s. 71; 1999, c. 83, s. 156.

965.33.1. *(Repealed).*

History: 1990, c. 7, s. 140; 1993, c. 64, s. 120.

965.33.2. *(Repealed).*

History: 1990, c. 7, s. 140; 1993, c. 64, s. 120.

965.33.3. *(Repealed).*

History: 1990, c. 7, s. 140; 1993, c. 64, s. 120.

CHAPTER IV ADMINISTRATION

Fiscal return.

965.34. An individual who elects to have this Title apply shall enclose with the fiscal return the individual is required to file for a taxation year under section 1000 the prescribed form containing the prescribed information in respect of the individual's investments in a Québec business investment company of which the individual is a shareholder and a copy of the information returns filed in prescribed form received by the individual from the body designated under section 1 of

the Act respecting Québec business investment companies (chapter S-29.1) for the year in respect of those investments.

History: 1986, c. 15, s. 150; 1989, c. 5, s. 193; 1997, c. 3, s. 71; 1998, c. 17, s. 64; 1999, c. 83, s. 157; 2001, c. 69, s. 12; 2002, c. 9, s. 40; 2010, c. 37, s. 108.

965.34.1. *(Repealed).*

History: 1990, c. 7, s. 141; 1993, c. 64, s. 121.

Filing of a prescribed form.

965.34.2. Where a Québec business investment company renounces an amount under section 965.31.5 in respect of a share issue, it shall file with the Minister a prescribed form in respect of the renunciation on or before the last day of the month following that in which the renunciation is made.

History: 1992, c. 1, s. 144.

965.34.3. *(Repealed).*

History: 1992, c. 1, s. 144; 1993, c. 16, s. 311; 1995, c. 63, s. 261; 2004, c. 21, s. 240; 2010, c. 31, s. 175; 2012, c. 8, s. 158.

Renunciation differing from the amount permitted.

965.34.4. Where the amount that a Québec business investment company purported to renounce, in respect of a share issue, under section 965.31.5 in respect of expenses incurred by it in the course of the share issue either exceeds the amount it may renounce under the said section in respect of the share issue or, where upon making the renunciation, it took into account additional expenses not yet incurred at that time or additional issue proceeds not yet received at that time, differs from the particular amount it would have been entitled to renounce under the said section in respect of that issue if, at that time, it could have taken into account the additional expenses actually incurred after that time and the additional issue proceeds actually received after that time, the following rules apply:

(a) the Québec business investment company shall, as the case may be, either reduce the amount so renounced in respect of the share issue by the amount of the excess, or alter it to make it equal to the particular amount;

(b) the Québec business investment company shall file a statement with the Minister indicating the adjustments made in the amount so renounced.

Adjustment by the Minister.

For the purposes of this Title, where the Québec business investment company fails to comply with subparagraphs *a* and *b* of the first paragraph within 30 days after notice in writing by the Minister has been forwarded to it that the adjustment as provided in the said subparagraph *a* is or will be required for the purposes of any assessment of tax under this Part, the Minister may, as the case may be, either reduce the amount purported to be renounced by the Québec

business investment company in respect of the share issue contemplated in the first paragraph by the amount of the excess referred to in that paragraph or alter it to make it equal to the particular amount referred to in that paragraph.

Deemed amount of the renunciation.

In either such case, the amount renounced by the Québec business investment company in respect of the share issue is deemed, notwithstanding section 965.31.5, to be the amount as reduced or altered, as the case may be, by the Québec business investment company or by the Minister, as the case may be.

History: 1992, c. 1, s. 144; 1997, c. 14, s. 170.

TITLE VI.3

FIRST COOPERATIVE INVESTMENT PLAN

CHAPTER I

INTERPRETATION

Definitions:

965.35. For the purposes of this Title, the expression

“qualified cooperative”;

(a) “qualified cooperative” means a qualified cooperative within the meaning of the cooperative investment plan;

“adjusted cost”;

(b) “adjusted cost” means the cost of a qualifying security as determined under sections 965.36 and 965.36.1;

“cooperative investment plan”;

(b.1) “cooperative investment plan” means the cooperative investment plan adopted under the Act respecting the Ministère du Développement économique, de l’Innovation et de l’Exportation (chapter M-30.01);

“total income”;

(c) “total income” means the total income of an individual within the meaning of paragraph *j* of section 965.1, as it read before being repealed;

“qualified partnership”;

(c.1) “qualified partnership” means a partnership that is a member of a farm cooperative and, within 60 days after the end of the fiscal period in which it acquired a qualifying security and not later than 31 January of the year immediately following the year in which the said fiscal period ends, files with the farm cooperative a written declaration indicating the share of each of its members of the income or loss of the partnership for that fiscal period;

“qualifying security”.

(d) “qualifying security” means a qualifying security within the meaning of the cooperative investment plan.

History: 1986, c. 15, s. 150; 1987, c. 21, s. 67; 1988, c. 41, s. 89; O.C. 2000-88; 1992, c. 1, s. 145; 1994, c. 16, s. 51; 1995, c. 63, s. 108; 1997, c. 3, s. 71; 1999, c. 8, s. 20; 2003, c. 29, s. 139; O.C. 222-2004; 2006, c. 8, s. 31; 2017, c. 29, s. 168.

CHAPTER II

GENERAL PROVISION

Adjusted cost of a qualifying security.

965.36. The adjusted cost to an individual of a qualifying security is obtained by multiplying the cost to the individual of the security, determined without taking into account the borrowing costs or other costs related to the acquisition of the security incurred by the individual or by a qualified partnership, by

(a) 100% in the case of a qualifying security, other than such a security referred to in the second paragraph, acquired after 31 December 1985 and before 13 June 2003; and

(b) 75% in the case of a qualifying security, other than such a security referred to in the second paragraph, acquired after 12 June 2003 and before 1 January 2005.

Adjusted cost of a qualifying security.

The adjusted cost of a qualifying security acquired by an individual within the scope of a workers investment program referred to in Division 4.1 of the cooperative investment plan is obtained by multiplying the cost to the individual of the security, determined without taking into account the borrowing costs or other costs related to the acquisition incurred by the individual, by

(a) 125%, where the individual acquires the security after 16 May 1989 and before 13 June 2003; and

(b) 93.75%, where the individual acquires the security after 12 June 2003 and before 1 January 2005.

History: 1986, c. 15, s. 150; 1987, c. 21, s. 68; 1990, c. 7, s. 142; 1997, c. 3, s. 71; 2004, c. 21, s. 241; 2006, c. 37, s. 37.

Adjusted cost of a qualifying security.

965.36.1. Where a qualifying security is acquired by an individual within the scope of the issue of that security by a qualified cooperative that holds, for the year in which the security is issued, a valid certificate issued by the Minister of Economic Development, Innovation and Export Trade certifying that the qualified cooperative is a small or medium-sized cooperative, within the meaning of the cooperative investment plan, the following rules apply:

(a) the percentages specified in subparagraph *a* of the first and second paragraphs of section 965.36 shall be increased by 25 points, where the qualifying security is acquired after 2 May 1991 and before 13 June 2003; and

(b) the percentages specified in subparagraph *b* of the first and second paragraphs of section 965.36 shall be increased by 18.75 points, where the qualifying security is acquired after 12 June 2003 and before 1 January 2005.

History: 1992, c. 1, s. 146; 1994, c.16, s. 51; 1997, c. 14, s. 171; 1999, c. 8, s.20; 2002, c. 40, s.95; 2003, c. 29, s.135; O.C. 222-2004; 2004, c. 21, s.242; 2006, c. 8, s.31; 2006, c. 37, s. 38.

Qualifying security acquired by a trust governed by an RRSP.

965.36.2. For the purposes of this Title, where, at any time, a trust governed by a registered retirement savings plan, of the type commonly called self-directed, acquires, as first purchaser, a qualifying security of a qualified cooperative, the following rules apply:

(a) the annuitant, within the meaning of paragraph *b* of section 905.1, under the plan at that time is deemed to be the person who acquires the qualifying security at that time as first purchaser and the trust is deemed not to be that person, to the extent that the annuitant at that time is an individual who is a qualified investor, within the meaning of the cooperative investment plan, in respect of the qualified cooperative; and

(b) the cost to the annuitant referred to in subparagraph *a* of the qualifying security is deemed to be the same as the cost to the trust.

History: 1995, c. 1, s. 106.

CHAPTER III DEDUCTION

Acquisition of a qualifying security.

965.37. An individual, other than a trust, who is resident in Québec on 31 December of a year may deduct in computing his taxable income for that year an amount not exceeding the amount by which the adjusted cost of a qualifying security acquired by him during the year or during any of the five preceding years exceeds any amount deducted under this section, in respect of that qualifying security, for those preceding years.

History: 1986, c. 15, s. 150; 1993, c. 19, s. 88.

Deemed acquisition of qualifying security.

965.37.1. For the purposes of section 965.37, an individual who is a member of a qualified partnership and whose activities consist mainly in carrying on a farming business or whose main activity is carried on within the partnership is deemed, if the individual is a member of the partnership at the end of the fiscal period of the partnership

in which it acquired a qualifying security, to have acquired the qualifying security in the year in which that fiscal period ends, at a cost equal to the agreed proportion of the cost of the qualifying security for the partnership, in respect of the individual for that fiscal period of the partnership.

History: 1987, c. 21, s. 69; 1995, c. 63, s. 109; 1997, c. 3, s. 71; 2009, c. 15, s. 172.

Maximum deduction.

965.38. Notwithstanding section 965.37, in no case may the amount of the deduction provided for in the said section in respect of an individual for a year exceed 30% of the individual's total income for the year.

History: 1986, c. 15, s. 150; 1988, c. 4, s. 117; 1989, c. 5, s. 194; 2002, c. 40, s. 96.

CHAPTER IV ADMINISTRATION

Fiscal return.

965.39. An individual who elects to have this Title apply shall enclose with the fiscal return the individual is required to file for a taxation year under section 1000 the prescribed form containing the prescribed information in respect of an investment in a qualified cooperative and a copy of the information returns filed in prescribed form received by the individual from a qualified cooperative for the year in respect of the individual's investment or deemed investment as a member of a qualified partnership at the end of a fiscal period of the partnership ending in that year.

History: 1986, c. 15, s. 150; 1987, c. 21, s. 70; 1997, c. 3, s. 71; 2002, c. 9, s. 41.

TITLE VI.3.1 SECOND COOPERATIVE INVESTMENT PLAN

CHAPTER I DEFINITIONS

Definitions:

965.39.1. In this Title,

“adjusted cost”;

“adjusted cost” means the cost of a qualifying security as determined under section 965.39.2;

“eligible member”;

“eligible member” has the meaning assigned by the first paragraph of section 2 of the Cooperative Investment Plan Act (chapter R-8.1.1);

“qualified cooperative”;

“qualified cooperative” has the meaning assigned by the first paragraph of section 2 of the Cooperative Investment Plan Act;

“qualified federation of cooperatives”;

“qualified federation of cooperatives” has the meaning assigned by the first paragraph of section 2 of the Cooperative Investment Plan Act;

“qualifying security”;

“qualifying security” has the meaning assigned by the first paragraph of section 2 of the Cooperative Investment Plan Act;

“total income”.

“total income” has the meaning assigned by the first paragraph of section 965.55.

History: 2006, c. 37, s. 39.

CHAPTER II GENERAL PROVISIONS

Adjusted cost of a qualifying security.

965.39.2. The adjusted cost to an individual of a qualifying security is obtained by multiplying the cost to the individual of the security, determined without taking into account the borrowing costs or other costs related to the acquisition of the security incurred by the individual or by a partnership, by 125%.

History: 2006, c. 37, s. 39.

Qualifying security acquired by a trust governed by an RRSP.

965.39.3. For the purposes of this Title, if, at any time, a trust governed by a registered retirement savings plan, of the type commonly called self-directed, acquires, as first purchaser, a qualifying security of a qualified cooperative or qualified federation of cooperatives, the following rules apply:

(a) the annuitant, within the meaning of paragraph *b* of section 905.1, under the plan at that time is deemed to be the person who acquires the qualifying security at that time as first purchaser and the trust is deemed not to be that person, provided that the annuitant at that time is an individual who is a qualified investor, within the meaning of section 9 of the Cooperative Investment Plan Act (chapter R-8.1.1), in respect of the qualified cooperative or qualified federation of cooperatives; and

(b) the cost to the annuitant referred to in paragraph *a* of the qualifying security is deemed to be the same as the cost to the trust.

History: 2006, c. 37, s. 39.

CHAPTER III DEDUCTION

Acquisition of a qualifying security.

965.39.4. An individual, other than a trust, who is resident in Québec on 31 December of a year may deduct, in computing the individual’s taxable income for that year, an

amount not exceeding the amount by which the adjusted cost of a qualifying security acquired by the individual in the year or in any of the five preceding years exceeds any amount deducted under this section, in respect of that qualifying security, for those preceding years.

History: 2006, c. 37, s. 39.

Deemed acquisition of qualifying security.

965.39.5. For the purposes of sections 965.39.2 and 965.39.4, if a partnership acquires, in a fiscal period of the partnership, a qualifying security of a qualified cooperative or qualified federation of cooperatives, an individual who is an eligible member of the partnership at the end of the fiscal period is deemed to have acquired the qualifying security in the year in which the fiscal period ends, at a cost equal to the agreed proportion of the cost of the qualifying security for the partnership, in respect of the individual for that fiscal period of the partnership.

History: 2006, c. 37, s. 39; 2009, c. 15, s. 173.

Maximum deduction amount.

965.39.6. Despite section 965.39.4, in no case may the amount of the deduction provided for in that section in respect of an individual for a year exceed 30% of the individual’s total income for the year.

History: 2006, c. 37, s. 39.

CHAPTER IV ADMINISTRATION

Fiscal return.

965.39.7. An individual who elects to have this Title apply shall enclose with the fiscal return the individual is required to file for a taxation year under section 1000 the prescribed form containing the prescribed information in respect of an investment in a qualified cooperative or qualified federation of cooperatives and a copy of the information returns filed in prescribed form received by the individual from a qualified cooperative or qualified federation of cooperatives for that year in respect of the individual’s investment or deemed investment as an eligible member of a partnership at the end of a fiscal period of the partnership ending in that year.

History: 2006, c. 37, s. 39.

TITLE VI.4 (Repealed).

CHAPTER I (Repealed).

965.40. (Repealed).

History: 1990, c. 7, s. 143; 1991, c. 8, s. 66; 1991, c. 8, s. 116; 1992, c. 1, s. 147; 2005, c. 23, s. 131.

CHAPTER II*(Repealed).***965.41.** *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

965.42. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 1992, c. 1, s. 148; 2005, c. 23, s. 131.

965.43. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

965.44. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

965.45. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 67; 1991, c. 8, s. 116; 1992, c. 1, s. 149; 2005, c. 23, s. 131.

965.46. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 67; 1991, c. 8, s. 116; 1992, c. 1, s. 150; 2005, c. 23, s. 131.

CHAPTER III*(Repealed).***965.47.** *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

965.48. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 68; 1991, c. 8, s. 116; 1992, c. 1, s. 151; 2005, c. 23, s. 131.

965.48.1. *(Repealed).*

History: 1992, c. 1, s. 152; 2005, c. 23, s. 131.

CHAPTER IV*(Repealed).***965.49.** *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

965.50. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

965.51. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 69; 1991, c. 8, s. 116; 1992, c. 1, s. 153; 2005, c. 23, s. 131.

CHAPTER V*(Repealed).***965.52.** *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 1992, c. 1, s. 154; 2005, c. 23, s. 131.

965.53. *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 70; 1991, c. 8, s. 116; 1992, c. 1, s. 155; 2005, c. 23, s. 131.

CHAPTER VI*(Repealed).***965.54.** *(Repealed).*

History: 1990, c. 7, s. 143; 1991, c. 8, s. 116; 2005, c. 23, s. 131.

TITLE VI.5**STOCK SAVINGS PLANS II****CHAPTER I****INTERPRETATION AND GENERAL****DIVISION I****DEFINITIONS****Definitions:****965.55.** In this Title and in sections 1049.14.2 to 1049.14.24,**“adjusted cost”;**

“adjusted cost” of a qualifying share, qualifying security or valid share means the adjusted cost determined under Chapter V;

“assets”;

“assets” of a corporation means the assets determined in accordance with subdivision 3 of Division II;

“common share with voting rights”;

“common share with voting rights” means a common share carrying a right to vote in all circumstances in the issuing corporation;

“coverage deficiency amount”;

“coverage deficiency amount” means the amount determined in accordance with section 965.129;

“dealer”;

“dealer” means a dealer, within the meaning of section 3 of the Derivatives Act (chapter I-14.01) or within the meaning of section 5 of the Securities Act (chapter V-1.1), having an establishment in Québec and registered with the Autorité des marchés financiers, a mutual fund within the meaning of that Act and an insurer, a bank, a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer its services therein as a trustee, a savings and credit union or any other prescribed person;

“designated qualified issuing corporation”;

“designated qualified issuing corporation” has the meaning assigned by sections 965.95 and 965.95.1;

“eligible transaction”;

“eligible transaction” means a transaction by which a capital pool company acquires important assets, other than cash on hand, as a consequence of the making of a purchase, consolidation or amalgamation contract or of an arrangement with another corporation, or as a consequence of another kind of transaction;

“list of the Autorité des marchés financiers”;

“list of the Autorité des marchés financiers” means the list published periodically by the Autorité des marchés financiers and containing the names of the corporations and the designation of those classes of shares of their capital stock that may constitute valid shares for the purposes of this Title;

“negotiable instrument”;

“negotiable instrument” means any standardized derivative within the meaning of section 3 of the Derivatives Act or any form of investment referred to in section 1 of the Securities Act, without reference to the exception provided for in subparagraph 3 of the first paragraph of that section;

“paid-up capital”;

“paid-up capital”

(a) in relation to a share of the capital stock of a corporation means the amount shown in its books in the capital stock account in respect of that share and any amount shown elsewhere in its books and received in consideration for the issue of that share; and

(b) in relation to a subscription right in a share of the capital stock of a corporation means the amount shown in its books in the capital stock account in respect of that right and received in consideration for the issue of that right;

“public security issue”;

“public security issue” means the distribution of a security in accordance with a receipt granted by the Autorité des marchés financiers after 21 April 2005;

“public share issue”;

“public share issue” means the distribution of a share in accordance with a receipt granted by the Autorité des marchés financiers after 21 April 2005 or, if section 965.76 applies, in accordance with an exemption from filing a prospectus provided for

(a) in section 51 of the Securities Act, if the exemption from filing a prospectus is granted by the Autorité des marchés financiers after 21 April 2005 and before 14 September 2005;

(b) in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions (chapter V-1.1, r. 21), if the exemption from filing a prospectus is granted by the Autorité des marchés financiers after 13 September 2005 and before 28 September 2009; or

(c) in subsection 1 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions, if the exemption from filing a prospectus is granted by the Autorité des marchés financiers after 27 September 2009;

“qualified issuing corporation”;

“qualified issuing corporation” means a corporation described in Division I of Chapter IV that is not governed by an Act establishing a labour-sponsored fund, by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) or by the Act respecting Québec business investment companies (chapter S-29.1);

“qualified mutual fund”;

“qualified mutual fund” means a mutual fund described in Division II of Chapter IV;

“qualifying security”;

“qualifying security” means a security meeting the requirements of section 965.85;

“qualifying share”;

“qualifying share” means a share meeting the requirements of any of sections 965.74 to 965.76, other than a share referred to in section 965.79;

“security”;

“security” means an investment in a qualified mutual fund;

“stock savings plan II”;

“stock savings plan II” means an arrangement described in section 965.56;

“total income”;

“total income”, in respect of an individual for a year, means the amount by which the individual’s income for the year that would be determined under section 28 but for paragraph *k.0.1* of section 311, section 311.1 where that section applies to a social assistance payment other than a payment received as last resort financial assistance under the Individual and Family Assistance Act (chapter A-13.1.1) or as similar government assistance, and paragraph *a* of section 317 where that paragraph refers to the amount of any supplement or allowance received under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or to a payment similar to such a supplement or allowance made under a law of a province, exceeds the amount the individual deducts for the year in computing the individual’s taxable income under Titles VI.5 and VI.5.1 of Book IV;

“valid qualifying security”;

“valid qualifying security” in respect of a year means a qualifying security acquired by an individual in that year and held without interruption, throughout the part of the year that follows the acquisition, in an SME growth stock plan under which the individual is a beneficiary;

“valid share”;

“valid share” means a share described in Chapter III;

“venture capital corporation”.

“venture capital corporation” means a corporation

- (a) whose main activity consists in investing funds in the form of shares of the capital stock of another corporation;
- (b) that generally participates in the management of the other corporation in which it invests funds;
- (c) that invests funds in another corporation that are generally not guaranteed by the assets of the other corporation; and
- (d) whose initial investment in another corporation does not exceed 20% of its funds available for such investments.

Time limit.

For the purposes of the definitions of “public security issue” and “public share issue” in the first paragraph, the application for a receipt in respect of the distribution of a share or security or, if section 965.76 applies, the application for an exemption from filing a prospectus, must be filed with the Autorité des marchés financiers before 1 January 2015.

History: 2006, c. 13, s. 80; 2007, c. 12, s. 94; 2009, c. 25, s. 107; O.C. 961-2009; 2009, c. 58, s. 88; 2010, c. 5, s. 96; 2010, c. 25, s. 103; 2013, c. 10, s. 79.

Stock savings plan II.

965.56. A stock savings plan II is

- (a) an arrangement made between an individual who is not a trust and a dealer, under which the individual entrusts the dealer with the custody of such of the individual’s qualifying shares and valid shares as the individual may indicate, that are not included in any other plan of any kind for the purposes of this Act or of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); or
- (b) an arrangement made between an individual who is not a trust and a dealer or a qualified mutual fund, under which the individual entrusts
- i. the dealer with the custody of such of the individual’s qualifying securities as the individual may indicate, that are not included in any other plan of any kind for the purposes of this Act or of the Income Tax Act, or
 - ii. the qualified mutual fund with the custody of such of the individual’s qualifying securities, issued by the qualified mutual fund, as the individual may indicate, that are not included in any other plan of any kind for the purposes of this Act or of the Income Tax Act.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 97.

DIVISION II
GENERAL RULES

§1. — *Listing and disclosure*

Listing on a designated stock exchange located in Canada.

965.57. A qualified issuing corporation making a public issue of shares of its capital stock with a stipulation that they can be included in a stock savings plan II is required to take steps to have the shares listed on a designated stock exchange located in Canada not later than 60 days after the date of the receipt for the final prospectus relating to their issue.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 98.

§2. — *Administration*

Record.

965.58. Every dealer with whom an individual has made an arrangement for a stock savings plan II shall keep in Québec a record showing, in a separate account, all the transactions effected on behalf of that individual under the plan.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 99.

Duties of dealer.

965.59. The dealer shall ensure that every qualifying share to be included in a stock savings plan II has been acquired for money consideration as part of a public share issue, that the certificate for the share has been sent to the dealer directly by the issuer of the certificate or by another dealer who certifies that the share has been held, without interruption from its issue, by a dealer acting as an intermediary or as a firm underwriter, and that the qualified issuing corporation that issued it has stated, in the final prospectus or in the application for an exemption from filing a prospectus relating to the share, that the share could be included in a stock savings plan II.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 100.

Obligation of dealer.

965.60. The dealer shall ensure that every valid share to be included in a stock savings plan II meets the requirements set out in Chapter III.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 101.

Record.

965.61. Every qualified mutual fund with which an individual has made an arrangement for a stock savings plan II shall keep in Québec a record showing, in a separate account, all the transactions effected on behalf of that individual under the plan.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 102.

Statement.

965.62. Every trustee or manager of a qualified mutual fund shall send to the Minister a statement to the effect that the undertakings of the qualified mutual fund specified in section 965.119 are fulfilled.

Filing of statement.

The statement must be filed within the three months that follow each year provided for in section 965.119.

History: 2006, c. 13, s. 80.

Prescribed forms.

965.63. An individual who elects to have this Title apply shall enclose with the fiscal return the individual is required to file for a taxation year under section 1000 the prescribed form containing the prescribed information in respect of the stock savings plans II under which the individual is a beneficiary and a copy of the information returns filed in prescribed form received by the individual for the year in respect of those plans from the dealers or qualified mutual funds.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 103.

§3. — *Assets***Assets of a corporation.**

965.64. The assets of a corporation are the assets shown in its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, or, if 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.

Computation rules.

For the purposes of the first paragraph, the following rules apply in computing the assets of a corporation:

(a) the amount of the surplus reassessment of its property and the amount of its incorporeal assets shall be subtracted, to the extent that the amount shown in their respect exceeds the expenditure made in their respect; and

(b) if a consideration for the purchase of incorporeal assets consists of shares of the corporation's capital stock, it is deemed to be nil.

History: 2006, c. 13, s. 80.

Assets of a corporation resulting from amalgamation.

965.65. The assets of a corporation that, within the 365 days preceding the date of the receipt for the final

prospectus or of the exemption from filing a prospectus, results from an amalgamation within the meaning of section 544 are equal to the greater of

(a) the amount of the assets, determined in accordance with section 965.64, of the corporation resulting from the amalgamation; and

(b) the amount of the aggregate of the assets of each of the predecessor corporations, determined in accordance with section 965.64, as if the reference in that section to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus were replaced by a reference to its financial statements submitted to the shareholders for each of the taxation years ended within the 365 days preceding the time of amalgamation and as if only the greatest amount, if any, of the assets of each of the predecessor corporations were taken into account.

History: 2006, c. 13, s. 80.

Assets of an associated corporation.

965.66. The assets of a corporation that is associated with another corporation in the 12 months preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, are equal to the amount by which the aggregate of the assets of the corporation and those of each corporation associated with it, determined in accordance with sections 965.64 and 965.65, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

Acquisition of controlled affiliate.

For the purposes of the first paragraph, no reference is to be made to section 21.20.4 in determining whether an issuing corporation and a particular corporation are associated with each other in the 12-month period referred to in that paragraph, if the issuing corporation uses a portion of the proceeds of a public share issue in payment of the acquisition of shares or any other negotiable instrument of the particular corporation and if the conditions set out in paragraph *a* or *b* of section 965.79 are met.

History: 2006, c. 13, s. 80; 2009, c. 15, s. 174.

Computation.

965.67. For the purposes of sections 965.64 to 965.66, the assets are to be computed by making every possible combination in the computation in respect of each fiscal period of each corporation referred to, where that is the case, in those sections.

History: 2006, c. 13, s. 80.

Financial statements.

965.68. For the purposes of section 965.64, the following rules apply:

(a) if a computation provided for in that section must be made in respect of a corporation that is in its first fiscal period, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements at the beginning of its first fiscal period; and

(b) if a computation provided for in that section must be made in respect of a corporation that, within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, modified its usual and accepted fiscal period, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements submitted to the shareholders for each of the taxation years ended in the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

History: 2006, c. 13, s. 80.

Computation method.

965.69. For the purposes of sections 965.64 to 965.68, if a computation provided for in those sections must be made in respect of a corporation described in section 965.70 that makes a public share issue, the computation is made without reference to the assets, if any, of a government or of another corporation mentioned in section 965.70 that is no longer associated with it on the date on which the public share issue ends and, in the case of the other corporation, was not directly or indirectly controlled by the issuing corporation at any time in the 12 months preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

History: 2006, c. 13, s. 80.

Issuing corporation.

965.70. A corporation referred to in section 965.69 is a corporation that, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus, would be a qualified issuing corporation but for a government or another corporation associated with a government associated with it on that date, except a corporation directly or indirectly controlled by the issuing corporation on that date or that was so controlled at any time in the 12 months preceding that date, and that is, on the date on which the public share issue ends, no longer associated with that government or that other corporation.

Issuing corporation.

The issuing corporation is also a corporation referred to in section 965.69 for the 12 months following the date on which

it is no longer associated with that government or that other corporation.

History: 2006, c. 13, s. 80.

Computation method.

965.71. For the purposes of sections 965.64 to 965.67, if a computation provided for in those sections must be made in respect of a particular corporation that makes a public share issue and that would be, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus, a qualified issuing corporation but for a venture capital corporation associated with it on that date, the computation is made without reference to the assets of that venture capital corporation if, on the date on which the public share issue ends, the particular corporation is no longer associated with that venture capital corporation.

History: 2006, c. 13, s. 80.

Requirement.

965.72. For the purposes of this Title, if a corporation is required to meet a requirement in respect of which section 965.64 or 965.66 applies, the requirement must be met for each of its fiscal periods referred to, where that is the case, in those sections.

History: 2006, c. 13, s. 80.

Reduction of assets.

965.73. For the purposes of sections 965.64 to 965.67, if a corporation or a corporation associated with it reduces its assets by any transaction for the purpose of qualifying the corporation as a corporation whose assets are less than \$200,000,000, the assets are deemed not to have been reduced unless the Minister decides otherwise.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 104.

CHAPTER II QUALIFYING SHARES AND QUALIFYING SECURITIES

DIVISION I QUALIFYING SHARES

Qualifying shares.

965.74. A share of the capital stock of an issuing corporation qualifies for a stock savings plan II if

(a) it is a common share with voting rights;

(b) it cannot, under the conditions pertaining to its issue, be redeemed in whole or in part by the issuing corporation or purchased in whole or in part by anyone, directly or indirectly, in any manner whatever, or be the subject of a transaction that would result either in rendering such a share, a share substituted for such a share or a share received as a result of a transaction referred to in any of sections 301, 536,

541 and 544 in relation to any such share or substituted share, redeemable in whole or in part by the issuing corporation or purchasable in whole or in part by anyone, directly or indirectly, in any manner whatever, or in transferring property of the corporation other than a dividend to the shareholder;

(c) it cannot, under the conditions pertaining to its issue, entitle the holder to a dividend that is or will be the subject of an undertaking under which its payment is guaranteed by a person other than the issuing corporation;

(d) it is issued by a qualified issuing corporation that states in the final prospectus that the share may be included in a stock savings plan II and entitles its holder to the benefit provided for in its respect by this Title;

(e) before the receipt for a final prospectus has been obtained, it was the subject of a favourable advance ruling from the Minister to the effect that it complies with the objectives of this Title;

(f) it is acquired for money consideration within the scope of a public share issue by an individual or a qualified mutual fund as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter; and

(g) it is subscribed and paid.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 105; 2010, c. 31, s. 89.

Certificate.

965.75. The certificate relating to a share described in section 965.74 must be given directly to the dealer referred to in section 965.56 by the issuer of the certificate or by another dealer who certifies that the certificate has been held, without interruption from its issue, by a dealer acting as an intermediary or as a firm underwriter, or issued and registered in the dealer's name or in the name of a person designated by the dealer.

History: 2006, c. 13, s. 80.

Qualifying share.

965.76. Subject to section 965.77, a share also qualifies for a stock savings plan II if

(a) it is acquired for money consideration by a qualified mutual fund as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter, as part of the distribution of a share in respect of which an exemption from filing a prospectus is referred to in the definition of "public share issue" in the first paragraph of section 965.55;

(b) it meets the requirements of paragraphs *a* to *c* and *g* of section 965.74;

(c) in the taxation year of the issuing corporation during which the application for an exemption from filing a

prospectus was filed and before the granting of the exemption, it was the subject of a favourable advance ruling from the Minister to the effect that it complies with the objectives of this Title;

(d) on or before 10 days after the day of the distribution of the share, a copy of the report provided for in section 46 of the Securities Act (chapter V-1.1), if the exemption from filing a prospectus is granted before 14 September 2005, in section 6.1 of Regulation 45-106 respecting prospectus and registration exemptions (chapter V-1.1, r. 21), if the exemption from filing a prospectus is granted after 13 September 2005 and before 28 September 2009, or in subsection 1 of section 6.1 of Regulation 45-106 respecting prospectus and registration exemptions, if the exemption from filing a prospectus is granted after 27 September 2009, was filed with the Minister, accompanied by the certificate described in section 965.78, unless the issuing corporation makes a first public share issue under this Title in accordance with an exemption from filing a prospectus referred to in the definition of "public share issue" in the first paragraph of section 965.55; and

(e) it is issued by a qualified issuing corporation having common shares of its capital stock carrying voting rights listed on a designated stock exchange located in Canada.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 106; 2010, c. 25, s. 104; 2010, c. 31, s. 89.

Exception.

965.77. The condition in paragraph *c* of section 965.76 does not apply in respect of a share if an issuing corporation has previously made a public share issue under this Title otherwise than in accordance with an exemption from filing a prospectus referred to in the definition of "public share issue" in the first paragraph of section 965.55.

History: 2006, c. 13, s. 80; 2010, c. 25, s. 105.

Certificate from manager.

965.78. The certificate to which paragraph *d* of section 965.76 refers means a certificate from a manager of the issuing corporation certifying that it is a qualified issuing corporation and that the share issued to the mutual fund—as part of the distribution of a share in respect of which an exemption from filing a prospectus is referred to in the definition of "public share issue" in the first paragraph of section 965.55—is a qualifying share.

History: 2006, c. 13, s. 80; 2010, c. 25, s. 105.

Qualifying share: exclusion.

965.79. Despite section 965.74, if the major portion of the proceeds of a public share issue is, as stated in the final prospectus or as may be inferred from it, used, directly or indirectly, in payment of the acquisition of shares or of any other negotiable instrument of a corporation, a share acquired

as part of the public share issue is not a qualifying share, unless,

(a) if the shares or negotiable instruments are securities issued by a particular corporation whose name is disclosed in the final prospectus, the issuing corporation or another corporation associated with it carries on a business and the particular corporation is, immediately after the acquisition, directly or indirectly, a subsidiary controlled corporation of the issuing corporation and the activities of the particular corporation or those of a subsidiary corporation the particular corporation controls directly or indirectly have commercial possibilities directly linked with the activities of the issuing corporation or of another corporation associated with it on the date of the receipt for the final prospectus; or

(b) if the shares or negotiable instruments will be securities issued by a corporation whose name is not disclosed in the final prospectus, the issuing corporation or another corporation associated with it carries on a business and the issuing corporation states expressly in the final prospectus that the shares or negotiable instruments will be securities issued by a particular corporation that, immediately after the acquisition, will be directly or indirectly, a subsidiary controlled corporation of the issuing corporation and the activities of the particular corporation or those of a subsidiary corporation the particular corporation controls directly or indirectly have commercial possibilities directly linked with the activities of the issuing corporation or those of another corporation associated with it on the date of the receipt for the final prospectus.

History: 2006, c. 13, s. 80.

Deemed payment.

965.80. For the purposes of section 965.79, if all or part of the proceeds of a public share issue is, as stated in the final prospectus or as may be inferred from it, used for the repayment of borrowed money or of any other debt contracted within a reasonable period of time before or after the date of the receipt for the final prospectus, or the redemption of shares or of any other securities issued within such a period of time for the payment of shares or of any other negotiable instrument, the use of all or part of the proceeds is deemed to be a payment for such an acquisition.

History: 2006, c. 13, s. 80.

Repayment of a loan.

965.81. For the purposes of sections 965.79 and 965.80, if all or part of the proceeds of a public share issue is, as stated in the final prospectus or as may be inferred from it, used for the repayment of borrowed money or of any other debt contracted by a particular corporation within a reasonable period of time before or after the date of the receipt for the final prospectus, or the redemption of shares or of any other securities issued within such a period of time for the payment of shares or of any other negotiable instrument issued by another corporation, and the issuing

corporation results from the amalgamation, within the meaning of section 544, of the particular corporation and of the other corporation, the issuing corporation is deemed to be, immediately after the acquisition mentioned in section 965.79, the particular corporation.

History: 2006, c. 13, s. 80.

Exclusions.

965.82. For the purposes of sections 965.79 and 965.80, a share or a negotiable instrument does not include, if the issuing corporation carries on the activities of a dealer, such property described in an inventory.

History: 2006, c. 13, s. 80.

Exception.

965.83. Section 965.79 does not apply if the issuing corporation is

(a) a bank;

(b) a body governed by the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or by the Insurers Act (2018, chapter 23, section 3);

(c) a corporation holding a licence or otherwise authorized by the laws of Canada or of a province to offer its services as a trustee; or

(d) a corporation whose principal business is the lending of money or the purchasing of debts.

History: 2006, c. 13, s. 80; 2018, c. 23, s. 811(2).

Activities outside Québec.

965.84. For the purposes of this chapter, if all or part of the proceeds of a public share issue relates, directly or indirectly, as stated by a corporation in a final prospectus or as may be inferred from it, to activities to be carried on outside Québec and, in the opinion of the Minister, the activities may have a tangible negative impact on the level of employment or economic activity in Québec of that corporation or of a subsidiary of that corporation, a share of that corporation acquired as part of the public share issue is not a qualifying share.

History: 2006, c. 13, s. 80.

DIVISION II QUALIFYING SECURITIES

Qualifying securities.

965.85. A security qualifies for a stock savings plan II if

(a) it is issued by a qualified mutual fund that states, in the final prospectus relating to the issue of the security, that the security may be included in a stock savings plan II and

entitles its holder to the benefit provided for in its respect by this Title;

(b) where it is issued by a qualified mutual fund that, in respect of its first public security issue consisting of securities that may be included in a stock savings plan II, has made an election under section 965.121, it is a security issued as part of that first public security issue;

(c) it is acquired for money consideration by an individual as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter;

(d) before the receipt for a final prospectus relating to its issue has been obtained, it was the subject of a favourable advance ruling from the Minister to the effect that it complies with the objectives of this Title; and

(e) the certificate attesting to it is

i. kept, under the terms of an arrangement provided for in subparagraph ii of paragraph b of section 965.56, by the qualified mutual fund that issued the security, or

ii. given directly to the dealer referred to in subparagraph i of paragraph b of section 965.56 by the issuer of the certificate or by another dealer who certifies that the certificate has been held, without interruption from its issue, by a dealer acting as an intermediary or as a firm underwriter, or issued and registered in the dealer's name or in the name of a person designated by the dealer.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 107; 2010, c. 31, s. 89.

CHAPTER III VALID SHARES

Valid shares.

965.86. A share of a class of the capital stock of a corporation is a valid share if

(a) it is acquired through a transaction on a stock exchange during a trading session;

(b) at the time of its acquisition, it is listed on a designated stock exchange located in Canada or, if the acquisition occurs before 14 December 2007, on a Canadian stock exchange, within the meaning assigned to that expression by section 1 on 13 December 2007;

(c) on the date of its acquisition, the class of shares of the capital stock of the corporation to which the share belongs is included in the list of the Autorité des marchés financiers; and

(d) as part of its acquisition, the certificate attesting to it is given to the dealer referred to in section 965.56 or issued and

registered in the dealer's name or in the name of a person designated by the dealer.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 108; 2017, c. 29, s. 169.

Valid shares.

965.87. A share of a class of the capital stock of a corporation is also a valid share if

(a) it is acquired by an individual or a qualified mutual fund as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter;

(b) at the time of its acquisition, it is listed on a designated stock exchange located in Canada or, if the acquisition occurs before 14 December 2007, on a Canadian stock exchange, within the meaning assigned to that expression by section 1 on 13 December 2007;

(c) it is issued by the corporation as part of a share issue referred to in the second paragraph of any of sections 965.105, 965.107 and 965.110;

(d) on the date of its acquisition, the class of shares of the capital stock of that corporation to which the share belongs is included in the list of the Autorité des marchés financiers; and

(e) as part of its acquisition, the certificate attesting to it is given to the dealer referred to in section 965.56 or issued and registered in the dealer's name or in the name of a person designated by the dealer.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 109; 2017, c. 29, s. 170.

Designation of eligibility.

965.88. A corporation may obtain a designation of eligibility for the list of the Autorité des marchés financiers in respect of a share of a class of its capital stock if it files an application with the Minister in the prescribed form containing prescribed information, on which a director of the corporation shall certify that the following conditions are satisfied on the date of the application:

(a) the share is listed on a designated stock exchange located in Canada and meets the requirements of paragraphs a to c of section 965.74; and

(b) the corporation would meet the requirements set out in section 965.90 or 965.94 if, in those sections, "on the date of the receipt for the final prospectus or of the exemption from filing a prospectus" were replaced by "on the date of the application filed with the Minister" and if, in subparagraph d of the first paragraph of section 965.94, "before the date of the receipt for the final prospectus or of the exemption from filing a prospectus" were replaced by "before the date of the application filed with the Minister".

Filing requirements.

The corporation shall enclose a description of its capital stock and its consolidated and non-consolidated financial statements with the prescribed form referred to in the first paragraph.

History: 2006, c. 13, s. 80; 2006, c. 36, s. 91; 2009, c. 15, s. 175; 2010, c. 5, s. 110.

Inclusion in list.

965.89. A qualified issuing corporation that has made a public share issue and in respect of which a share of a class of its capital stock is a qualifying share because of the application of section 965.76, may request that the class of shares to which the share belongs be included in the list of the Autorité des marchés financiers.

History: 2006, c. 13, s. 80.

CHAPTER IV QUALIFIED ISSUERS

DIVISION I QUALIFIED ISSUING CORPORATIONS

§1. — *Basic rules*

Qualified issuing corporations.

965.90. A corporation making a public share issue is a qualified issuing corporation if, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus,

- (a) it is a Canadian corporation;
- (b) its assets are less than \$200,000,000;
- (c) its central management is in Québec and more than one-half of the wages paid to its employees, within the meaning of the regulations made under section 771, in its last taxation year ended before that date, were paid to employees of an establishment situated in Québec;
- (d) throughout the preceding 12 months, it carried on a business and had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and
- (e) not more than 50% of the value of its property, as shown in its financial statements submitted to the shareholders for its last taxation year ended before that date, or, if 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, consists of the value of cash on hand or on deposit, shares, promissory notes, debentures, bonds,

any other debt securities, guaranteed investment certificates, units of a mutual fund trust, units representing an undivided share in a project or property, subscription rights or purchasing rights to such shares that are not qualified investments described in section 965.92.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 111.

Rules applicable.

965.91. For the purposes of paragraph *d* of section 965.90, the following rules apply:

(a) a corporation is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders, if

i. throughout the 12-month period preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, a class of shares of its capital stock is listed on a designated stock exchange located in Canada, and

ii. a person, other than such an insider or a person related to such an insider, or a partnership provides the corporation, in the period described in subparagraph i, with services under a service contract and the corporation would normally require the services of more than five full-time employees if those services were not provided; and

(b) if the favourable advance ruling referred to in paragraph *e* of section 965.74 or paragraph *c* of section 965.76 confirms that the corporation making a public share issue is carrying on a business on a seasonal basis and that the continuous period during which the business is carried on is comparable to that of other businesses operating in the same sector of activity, paragraph *d* of section 965.90 is to be read as if “throughout the preceding 12 months” was replaced by “throughout a period of seasonal activity that precedes that date”.

History: 2006, c. 13, s. 80; 2009, c. 5, s. 389; 2010, c. 5, s. 112.

Qualified investments.

965.92. The qualified investments to which paragraph *e* of section 965.90 refers are

(a) voting shares representing not less than 20% of the voting shares of a particular corporation meeting the requirement of paragraph *e* of section 965.90;

(b) promissory notes, debentures, bonds or other debt securities issued by a particular corporation referred to in paragraph *a* and shares without voting rights of such a particular corporation;

(c) debentures, bonds or shares issued by a cooperative, other than a savings and credit union, meeting the requirement of paragraph *e* of section 965.90;

(d) promissory notes or other debt securities obtained in the ordinary course of its business and held by a bank, a body governed by the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or by the Insurers Act (chapter A-32.1), a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer its services as a trustee, or any other corporation whose principal business is the lending of money or the purchasing of debts; and

(e) property described in an inventory by a corporation carrying on the activities of a dealer.

History: 2006, c. 13, s. 80; 2018, c. 23, s. 811(2).

Request from the Minister.

965.93. For the purposes of paragraph *e* of section 965.90, the Minister may, for the purpose of determining whether the value of the corporation's property that is referred to in that paragraph *e* does not exceed 50%, require from the issuing corporation any document the Minister deems necessary, including the filing of non-consolidated financial statements.

History: 2006, c. 13, s. 80.

Qualified issuing corporation.

965.94. A corporation making a public share issue is also a qualified issuing corporation if, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus,

(a) it is a Canadian corporation whose head office or principal place of business is in Québec;

(b) substantially all of its property consists of shares of the capital stock of one or more of its subsidiary controlled corporations or of loans or advances granted to such subsidiary corporations;

(c) one of the subsidiary corporations meets the requirements of paragraphs *a* to *c* and *e* of section 965.90 and, throughout the 12 preceding months, carried on a business and had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and

(d) not more than 50% of the value of the issuing corporation's property, as shown in the issuing corporation's last consolidated financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, consists of property mentioned in paragraph *e* of section 965.90.

Presumption.

For the purposes of subparagraph *c* of the first paragraph, a subsidiary is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) throughout the 12-month period preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, a class of shares of its capital stock is listed on a designated stock exchange located in Canada; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the subsidiary, in the period described in subparagraph *a*, with services under a service contract and the subsidiary would normally require the services of more than five full-time employees if those services were not provided.

Business carried on seasonal basis.

For the purposes of subparagraph *c* of the first paragraph, if the favourable advance ruling referred to in paragraph *e* of section 965.74 or paragraph *c* of section 965.76 confirms that the subsidiary is carrying on a business on a seasonal basis and that the continuous period during which the business is carried on is comparable to that of other businesses operating in the same sector of activity, subparagraph *c* of the first paragraph is to be read as if "throughout the 12 preceding months" was replaced by "throughout a period of seasonal activity that precedes that date".

History: 2006, c. 13, s. 80; 2006, c. 36, s. 92; 2007, c. 12, s. 95; 2009, c. 5, s. 390; 2010, c. 5, s. 113.

Designated qualified issuing corporation.

965.95. A capital pool company making a public share issue may, where the distribution of shares is made in accordance with a receipt of the Autorité des marchés financiers, be designated by the Minister as a qualified issuing corporation if, on the date of the receipt for the final prospectus,

(a) it is a Canadian corporation;

(b) its assets are less than \$200,000,000;

(c) it would meet the requirements of paragraph *e* of section 965.90 if no reference was made to the corporation's liquid assets to be used in connection with the carrying out of an eligible transaction;

(d) the major portion of the proceeds of the issue, as stated in the final prospectus or as may be inferred from it, will be used for the carrying out of an eligible transaction whose purpose is, directly or indirectly, to continue an existing business that, if it had been carried on by the corporation throughout the 12 preceding months, would have enabled the

corporation to meet the requirements of paragraphs *c* and *d* of section 965.90; and

(*e*) the Minister is of the opinion that the public share issue complies with the objectives of this Title.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 114.

Other designated qualified issuing corporation.

965.95.1. A capital pool company that, for the purposes of section 965.76 and in accordance with an exemption from filing a prospectus, makes a public share issue to a qualified mutual fund may be designated by the Minister as a qualified issuing corporation if, on the date of the exemption from filing a prospectus,

(*a*) the issue is made concomitantly with an eligible transaction carried out by the capital pool company;

(*b*) the capital pool company meets the requirements of paragraphs *a* and *b* of section 965.95;

(*c*) the major portion of the proceeds of the issue of qualifying shares to the qualified mutual fund will be used for the carrying out of a concomitant eligible transaction whose purpose is, directly or indirectly, to continue an existing business that is carried on by a corporation that, on the date of the exemption from filing a prospectus, meets the requirements of paragraphs *a* to *e* of section 965.90; and

(*d*) the Minister is of the opinion that the public share issue complies with the objectives of this Title.

Request from the Minister.

For the purposes of the first paragraph, the Minister may require any document or information the Minister considers necessary to render an advance ruling on compliance with the objectives of this Title.

History: 2013, c. 10, s. 80.

§2. — *Amalgamations*

Corporation resulting from an amalgamation.

965.96. For the purposes of paragraph *c* of section 965.90, if a corporation results from an amalgamation within the meaning of section 544, the requirement relating to the percentage of the wages paid to the employees of the corporation, in its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, is to be replaced by the requirement that more than one-half of the wages paid by a predecessor corporation, in its last taxation year ended immediately before the amalgamation, to its employees, within the meaning of the regulations under section 771, were paid to employees of an establishment situated in Québec.

Requirements.

For the purposes of paragraph *d* of section 965.90, if a corporation results from an amalgamation within the meaning of section 544 and a period of at least 12 months has not elapsed between the time of the amalgamation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement relating to the number of employees set out in that paragraph is to be replaced by the requirement that that corporation have, throughout the period from the time of the amalgamation to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders and for one of the predecessor corporations to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of that Act nor persons related to such insiders throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the time of the amalgamation.

Presumption.

For the purposes of the second paragraph, a predecessor corporation is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(*a*) throughout the part of the period described in the second paragraph, a class of shares of its capital stock is listed on a designated stock exchange located in Canada; and

(*b*) a person, other than such an insider or a person related to such an insider, or a partnership provides the predecessor corporation, in the part of the period referred to in subparagraph *a*, with services under a service contract and that predecessor corporation would normally have required the services of more than five full-time employees if those services had not been provided.

Applicability.

The rules of the second and third paragraphs apply, with the necessary modifications, to

(*a*) the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90; and

(*b*) the requirement relating to the carrying on of a business on a seasonal basis throughout a period of seasonal activity, because of the application of paragraph *b* of section 965.91.

History: 2006, c. 13, s. 80; 2007, c. 12, s. 96; 2009, c. 5, s. 391; 2010, c. 5, s. 115.

Successive amalgamations.

965.97. For the purposes of section 965.96, if a predecessor corporation referred to in that section is itself a corporation resulting from an amalgamation within the meaning of section 544, in this section referred to as the “original amalgamation”, and a period of at least 12 months has not elapsed between the time of the original amalgamation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement in its respect concerning the number of employees, for the part of the period described in the second paragraph of section 965.96, is to be replaced by the requirement that that corporation have had, throughout the part of that period between the time of the original amalgamation and the time of the amalgamation referred to in the second paragraph of section 965.96, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders and for one of the predecessor corporations that were replaced by the original amalgamation to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of that Act nor persons related to such insiders throughout the part of the period described in the second paragraph of section 965.96 within the 12-month period that ends on the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

Presumption.

For the purposes of the first paragraph, a predecessor corporation is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

- (a) throughout the part of the period described in the first paragraph, a class of shares of its capital stock is listed on a designated stock exchange located in Canada; and
- (b) a person, other than such an insider or a person related to such an insider, or a partnership provides the predecessor corporation, in the part of the period referred to in subparagraph *a*, with services under a service contract and that predecessor corporation would normally have required the services of more than five full-time employees if those services had not been provided.

Successive amalgamations.

For the purposes of the first paragraph, if the predecessor corporation referred to lastly in that paragraph, or a predecessor corporation that is referred to lastly in that paragraph as a result of the application of this paragraph, is itself a corporation resulting from an amalgamation within the meaning of section 544 and a period of at least 12 months has not elapsed between the time of that amalgamation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the rule set out in the

first paragraph applies in relation to the requirement in its respect concerning the number of employees set out lastly in that paragraph.

Applicability.

The rules of the first, second and third paragraphs apply, with the necessary modifications, to

- (a) the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90; and
- (b) the requirement relating to the carrying on of a business on a seasonal basis throughout a period of seasonal activity, because of the application of paragraph *b* of section 965.91.

History: 2006, c. 13, s. 80; 2007, c. 12, s. 97; 2009, c. 5, s. 392; 2010, c. 5, s. 116.

§3. — Windings-up**Winding-up of a subsidiary.**

965.98. For the purposes of section 965.90, if a corporation making a public share issue does not meet the requirement relating to the number of employees set out in paragraph *d* of that section and a winding-up as described in section 556 of a subsidiary within the meaning of that section in respect of which the corporation is, immediately before the winding-up, the parent within the meaning of that section, terminates within the 12-month period immediately before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement is replaced by the following requirements:

- (a) the corporation shall, throughout the period from the time the winding-up terminates to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, have not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and
- (b) the subsidiary shall, throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the time the winding-up terminates, have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders.

Presumption.

For the purposes of subparagraph *b* of the first paragraph, a subsidiary is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) throughout the part of the period described in that subparagraph *b*, a class of shares of its capital stock is listed on a designated stock exchange located in Canada; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the subsidiary, in the part of the period referred to in subparagraph *a*, with services under a service contract and the subsidiary would normally have required the services of more than five full-time employees if those services had not been provided.

Carrying on of a business.

The rules of the first and second paragraphs apply, with the necessary modifications, to the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 117.

Successive windings-up.

965.99. For the purposes of section 965.98, if the subsidiary, in this section referred to as the “particular subsidiary”, does not meet the requirement set out in subparagraph *b* of the first paragraph of that section and a winding-up as described in section 556 of a subsidiary within the meaning of that section, in this section referred to as the “other subsidiary”, in respect of which the particular subsidiary is, immediately before the winding-up, the parent within the meaning of that section, terminates within the 12-month period immediately before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement is replaced by the following requirements:

(a) the particular subsidiary shall, throughout the part of the period between the time the winding-up of the other subsidiary terminates and the time the winding-up referred to in the first paragraph of section 965.98 terminates, have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and

(b) the other subsidiary shall, throughout the part of the period immediately before the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the time its winding-up terminates, have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders.

Presumption.

For the purposes of subparagraph *b* of the first paragraph, the other subsidiary is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) throughout the part of the period described in that subparagraph *b*, a class of shares of its capital stock is listed on a designated stock exchange located in Canada; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the other subsidiary, in the part of the period referred to in subparagraph *a*, with services under a service contract and that other subsidiary would normally have required the services of more than five full-time employees if those services had not been provided.

Presumption.

For the purposes of the first paragraph, if the other subsidiary does not meet the requirement set out in subparagraph *b* of that paragraph and a winding-up as described in section 556 of a subsidiary within the meaning of that section, in this paragraph referred to as the “underlying subsidiary”, in respect of which the other subsidiary is, immediately before the winding-up, the parent within the meaning of that section, terminates within the 12-month period described in the first paragraph, the rules set out in subparagraphs *a* and *b* of the first paragraph apply to the other subsidiary and to the underlying subsidiary, respectively.

Carrying on of a business.

The rules of the first, second and third paragraphs apply, with the necessary modifications, to the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 118.

§4. — *Continuation of a business*

Corporation continuing to carry on a business.

965.100. For the purposes of section 965.90, if a particular business carried on by a corporation is, where the Minister so decides, considered in fact to consist mainly in the continuation of a business or part of a business carried on by another taxpayer before the time of the beginning of the carrying on of the particular business by the corporation, the following rules apply:

(a) the requirement relating to the percentage of wages paid to the corporation’s employees, set out in paragraph *c* of section 965.90, is replaced by the following requirements if the corporation is in its first fiscal period:

i. throughout the period from the time of the beginning of the carrying on of the particular business by the corporation to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, more than one-half of the wages paid to its employees, within the meaning of the regulations under section 771, were paid to employees of an establishment situated in Québec, and

ii. immediately before the time of the beginning of the carrying on of the particular business by the corporation, more than one-half of the wages paid by the other taxpayer to its employees, within the meaning of the regulations under section 771, were paid to employees of an establishment situated in Québec throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the beginning of the carrying on of the particular business by the corporation; and

(b) the requirement relating to the number of employees set out in paragraph *d* of section 965.90 is replaced by the following requirements if a period of at least 12 months has not elapsed between the time of the beginning of the carrying on of the particular business by the corporation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus:

i. throughout the period from the time of the beginning of the carrying on of the particular business by the corporation to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the corporation must have not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders, and

ii. immediately before the time of the beginning of the carrying on of the particular business by the corporation, the other taxpayer must have had, in relation to that business or part of a business, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of that Act nor persons related to such insiders throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the beginning of the carrying on of the particular business by the corporation.

Continuation of a business.

For the purposes of the first paragraph, the continuation of a business or part of a business carried on by another taxpayer before the beginning of the carrying on, by a corporation, of the particular business must result from

(a) the acquisition or rental, by the corporation, of property from the other taxpayer who, throughout the part of the period described in the first paragraph that precedes the acquisition or rental, carried on a business in which the other taxpayer used that property; or

(b) the carrying on, by the corporation, of a new business that may reasonably be considered in fact to consist in the extension of a business or part of a business carried on by the other taxpayer.

Presumption.

For the purposes of subparagraph *b* of the first paragraph, the other taxpayer is deemed to have had not fewer than five

full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) throughout the part of the period described in subparagraph ii of subparagraph *b* of the first paragraph, a class of shares of its capital stock is listed on a designated stock exchange located in Canada; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the other taxpayer, in the period referred to in subparagraph *a*, with services under a service contract and that other taxpayer would normally have required the services of more than five full-time employees if those services had not been provided.

History: 2006, c. 13, s. 80; 2006, c. 36, s. 93; 2010, c. 5, s. 119.

§5. — *Various rules*

Reference.

965.101. For the purposes of paragraph *c* of section 965.90, if a corporation has, within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, modified its usual and accepted fiscal period, the reference to its last taxation year ended before that date is to be replaced by a reference to each of the taxation years ended within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

History: 2006, c. 13, s. 80.

Financial statements.

965.102. For the purposes of paragraph *e* of section 965.90, the following rules apply:

(a) in the case of a corporation in its first fiscal period, except in the case provided for in paragraph *c*, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements at the beginning of its first fiscal period;

(b) in the case of a corporation having modified its usual and accepted fiscal period within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus otherwise than as a result of an amalgamation within the meaning of section 544, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements submitted to the shareholders for each of the taxation years ended within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus; and

(c) in the case of a corporation resulting from an amalgamation within the meaning of section 544 within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements submitted to the shareholders at the beginning of its first fiscal period if the corporation is in its first fiscal period, or for each of the taxation years ended since the time of the amalgamation in other cases, and to the financial statements submitted to the shareholders of the predecessor corporation referred to in section 965.96 or 965.97 for each of its taxation years ended within the 365 days preceding the time of the amalgamation.

History: 2006, c. 13, s. 80.

Election.

965.103. For the purposes of paragraph *e* of section 965.90, if the major portion of the proceeds of a public share issue is used for the financing of scientific research and experimental development carried on in Québec, the corporation may elect to have the following rules apply:

(a) the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is replaced, where applicable, by a reference to its last interim financial statements, before that date, as audited and submitted to the shareholders;

(b) that paragraph *e* is to be read without reference to “cash on hand or on deposit,” and “promissory notes, debentures, bonds, any other debt securities, guaranteed investment certificates,”; and

(c) the value of the property mentioned in that paragraph *e* is increased by the amount of expenditures for scientific research and experimental development carried on by the corporation in Québec in the taxation years ended in a 60-consecutive-month period ending on the date of the financial statements considered and, in the case of interim financial statements, is also increased by the amount of expenditures for scientific research and experimental development carried on in Québec in the period covered by those interim financial statements.

History: 2006, c. 13, s. 80.

Subsequent change in composition of property.

965.104. For the purposes of paragraph *e* of section 965.90, if, between the end of the last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus and the date of that receipt or exemption, a substantial change occurs in relation to the composition of a corporation’s property and

the Minister is of the opinion that the objectives of this Title, except that paragraph *e*, are met, the Minister may, for the purpose of determining whether the value of the corporation’s property that is referred to in that paragraph *e* does not exceed 50%, consult any document the Minister considers appropriate in the circumstances, including the last audited interim financial statements of the corporation, prepared before the date of the receipt for the final prospectus or of the exemption from filing a prospectus and submitted to the shareholders.

Substantial change.

For the purposes of the first paragraph, a substantial change in relation to the composition of a corporation’s property means a decrease of at least 25 points between the percentage representing the proportion that the value of the property referred to in paragraph *e* of section 965.90 is of the total value of its property, as shown in its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, or, if 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, and the percentage representing the proportion that the value of the property referred to in that paragraph *e* is of the total value of its property, as shown in its last interim financial statements, or, if such financial statements have not been prepared, in any other document the Minister considers appropriate in the circumstances.

History: 2006, c. 13, s. 80.

§6. — Purchase or redemption of shares and anti-avoidance rule

Qualified corporation: exclusion.

965.105. For the purposes of this Title, “qualified issuing corporation” does not include a corporation that, in the period beginning on the first day of the fifth calendar year preceding the calendar year in which it is granted a receipt for a final prospectus or an exemption from filing a prospectus in respect of a share issue and ending at the time the receipt or exemption is granted, makes a transaction consisting in the purchase or redemption in any manner whatever, directly or indirectly, of a share of a class of its capital stock other than a share described in section 965.106.

Applicability.

The first paragraph applies during the period referred to in the first paragraph until the corporation has, in respect of each transaction, made an issue of shares of its capital stock that meet the requirement of paragraph *b* of section 965.74 and are not qualifying shares, for an amount equal to or greater than the amount of the transaction.

History: 2006, c. 13, s. 80.

Exclusions.

965.106. The share to which section 965.105 refers is

- (a) a share that is a fractional share;
- (b) a share that can, under the conditions pertaining to its issue, be redeemed by the issuing corporation or purchased by anyone, directly or indirectly, in any manner whatever, and that was not received as part of a large distribution of surplus or as a result of a transaction referred to in any of sections 301, 536, 541 and 544 in respect of a share meeting, at the time of its issue, the requirement of paragraph *b* of section 965.74 or in respect of a share substituted for such a share; or
- (c) a share purchased or redeemed to meet the requirements of an Act or the regulations governing a sector of activities.

History: 2006, c. 13, s. 80.

Qualified corporation: exclusion.

965.107. For the purposes of this Title, “qualified issuing corporation” does not include a corporation whose shares of a class of its capital stock are, in the period beginning on the first day of the fifth calendar year preceding the calendar year in which it is granted a receipt for a final prospectus or an exemption from filing a prospectus in respect of a share issue and ending at the time the receipt or exemption is granted, the subject of a particular transaction consisting of a transaction or operation or of a series of transactions or operations if, in the opinion of the Minister, it is reasonable to believe that the particular transaction is equivalent to the redemption of a share of a class of its capital stock other than a share described in section 965.108.

Applicability.

The first paragraph applies during the period referred to in the first paragraph until the corporation has, in respect of each particular transaction and for an amount determined in section 965.109, made an issue of shares of its capital stock that meet the requirement of paragraph *b* of section 965.74 and are not qualifying shares or until shares of the capital stock of the corporation have been the subject, in respect of each particular transaction, of a transaction or operation or of a series of transactions or operations, for an amount determined in section 965.109, if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the issue of shares of the capital stock of the corporation that meet the requirement of that paragraph *b*.

Power of Minister.

The Minister may exercise the power provided for in the first paragraph, in particular, when shares of the capital stock of a

corporation that are not described in section 965.108 are acquired by a person related to the corporation.

History: 2006, c. 13, s. 80.

Exclusions.

965.108. The share to which section 965.107 refers is

- (a) a share that is a fractional share;
- (b) a share that can, under the conditions pertaining to its issue, be redeemed by the issuing corporation or purchased by anyone, directly or indirectly, in any manner whatever, and that was not received as part of a large distribution of surplus or as a result of a transaction referred to in any of sections 301, 536, 541 and 544, in relation to a share meeting, at the time of its issue, the requirement of paragraph *b* of section 965.74 or in relation to a share substituted for such a share; or
- (c) a share that is the subject of a transaction or operation or of a series of transactions or operations if the transaction or operation or the series of transactions or operations is effected to meet the requirements of an Act or the regulations governing a sector of activities.

History: 2006, c. 13, s. 80.

Minimum amount.

965.109. The amount to which the second paragraph of section 965.107 refers is an amount that, in the opinion of the Minister, is equal to or greater than the amount that would have been disbursed for the acquisition of the shares that, but for a transaction or operation or a series of transactions or operations referred to in the first paragraph of that section, would have been purchased or redeemed.

History: 2006, c. 13, s. 80.

Qualified corporation: exclusion.

965.110. For the purposes of this Title, “qualified issuing corporation” does not include a corporation the net shareholders’ equity of which, in the period beginning on the first day of the fifth calendar year preceding the calendar year in which it is granted a receipt for a final prospectus or an exemption from filing a prospectus in respect of a public share issue and ending at the time the receipt or exemption is granted, is affected, directly or indirectly, in any manner whatever, as a result of a particular transaction consisting of a transaction or operation or of a series of transactions or operations other than a transaction or operation or a series of transactions or operations described in section 965.112 if, in the opinion of the Minister, it is reasonable to believe that the particular transaction is equivalent to the redemption of a share of a class of its capital stock other than a share described in section 965.111.

Applicability.

The first paragraph applies during the period referred to in the first paragraph until the corporation has, in respect of each particular transaction, made an issue of shares of its capital stock that meet the requirement of paragraph *b* of section 965.74 and are not qualifying shares or until the net shareholders' equity of the corporation has been the subject, in respect of each particular transaction, of a transaction or operation or of a series of transactions or operations if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the issue of such shares of the capital stock of the corporation for an amount that is equal to or greater than the amount by which the net shareholders' equity was modified.

Distribution.

Without restricting the generality of the preceding paragraphs, the Minister may render such a decision, in particular, when a corporation makes a large distribution of its surplus, except such a distribution in shares of its capital stock.

History: 2006, c. 13, s. 80.

Exclusions.

965.111. The share to which section 965.110 refers is

(a) a share that is a fractional share; or

(b) a share that can, under the conditions pertaining to its issue, be redeemed by the issuing corporation or purchased by anyone, directly or indirectly, in any manner whatever, and that was not received as part of a large distribution of surplus or as a result of a transaction referred to in any of sections 301, 536, 541 and 544, in relation to a share meeting, at the time of its issue, the requirement of paragraph *b* of section 965.74 or in relation to any share substituted for such a share.

History: 2006, c. 13, s. 80.

Transactions or operations.

965.112. A transaction or operation or a series of transactions or operations referred to in the first paragraph of section 965.110 is a transaction or operation or a series of transactions or operations effected to meet the requirements of an Act or the regulations governing a sector of activities.

History: 2006, c. 13, s. 80.

Transaction of less than 5% of paid-up capital.

965.113. For the purposes of this Title, a corporation that has made a particular transaction referred to in the first paragraph of any of sections 965.105, 965.107 and 965.110, is not required to meet the requirement set out in the second paragraph of those sections, where applicable, in respect of the particular transaction, if the aggregate of the amounts by

which its capital stock has been reduced as a result of the particular transaction and of any other transaction consisting of a particular transaction referred to in the first paragraph of those sections that is made during the period that begins on the three hundred and sixty-fourth day preceding the day of the particular transaction and ends immediately before the particular transaction is made is less than 5% of the aggregate of the following amounts, determined immediately before the particular transaction is made:

(a) the paid-up capital relating to the shares of its capital stock, other than shares described in sections 965.106, 965.108 and 965.111; and

(b) the paid-up capital relating to the subscription rights in the shares referred to in paragraph *a*.

History: 2006, c. 13, s. 80.

Transaction of less than 10% of paid-up capital.

965.114. For the purposes of this Title, a corporation that plans to make a share issue that can be included in a stock savings plan II as qualifying shares, no share of the capital stock of which was issued with a stipulation that it could be included in such a plan nor was issued, as a result of a transaction referred to in section 541 or 544, other than a transaction referred to in section 555.1, in replacement of or substitution for a share issued with such a stipulation, and that makes before the date of the receipt for the final prospectus or of the exemption from filing a prospectus relating to its issue or has made a particular transaction referred to in the first paragraph of any of sections 965.105, 965.107 and 965.110, is not required to meet the requirement set out in the second paragraph of those sections, where applicable, in respect of the particular transaction, if the aggregate of the amounts by which its capital stock has been reduced as a result of the particular transaction and of any other transaction consisting of a particular transaction referred to in the first paragraph of those sections that is made during the period that begins on the three hundred and sixty-fourth day preceding the day of the particular transaction and ends immediately before the particular transaction is made is less than 10% of the amount of the share issue that the corporation plans to make.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 120.

Exception.

965.115. Despite sections 965.105 to 965.114, a corporation may make a transaction referred to in those sections without having to meet the requirement set out in the second paragraph of any of sections 965.105, 965.107 and 965.110 if, in the opinion of the Minister, an undesirable situation would otherwise result.

History: 2006, c. 13, s. 80.

Anti-avoidance rule.

965.116. For the purposes of this Title, “qualified issuing corporation” does not include a corporation that effects a transaction or operation or a series of transactions or operations if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations was effected to meet the requirements set out in paragraph *d* or *e* of section 965.90.

History: 2006, c. 13, s. 80.

DIVISION II QUALIFIED MUTUAL FUNDS

Qualified mutual funds.

965.117. A qualified mutual fund is a mutual fund, within the meaning of section 5 of the Securities Act (chapter V-1.1), that meets the requirements of this division.

History: 2006, c. 13, s. 80; 2010, c. 25, s. 106.

Requirement.

965.118. A qualified mutual fund shall be established in Québec and the trustee or manager of the qualified mutual fund shall be resident in Canada and maintain an establishment in Québec.

History: 2006, c. 13, s. 80.

Undertaking by a qualified mutual fund.

965.119. When making, in any year, a public security issue consisting of securities that may be included in a stock savings plan II, a qualified mutual fund shall stipulate in the final prospectus relating to their issue that it undertakes to meet the following requirements:

(a) to acquire, on or before 31 December in the year, qualifying shares with the proceeds or expected proceeds, for the year, of the public security issue, whose adjusted cost is not less than the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the year and constituting valid qualifying securities;

(b) to be the owner, on 31 December in the year and in each of the following two years, of qualifying shares or valid shares, other than qualifying shares or valid shares having already been used, in respect of the same year, for the purposes of this paragraph, and whose adjusted cost is not less than the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the year and not redeemed by the qualified mutual fund on 31 December in the year and on 31 December in each of the two years following the year, respectively, as the case may be; and

(c) to ensure, in relation to a qualifying share acquired by the qualified mutual fund, that no coverage deficiency amount may be computed in respect of an individual who has

acquired a qualifying security as part of a public security issue.

Expected proceeds of a public security issue.

For the purposes of subparagraph *a* of the first paragraph and section 965.120, the expected proceeds of a public security issue made by a qualified mutual fund for a year are the proceeds of such a public security issue or a portion of such proceeds, as the case may be, to the extent that

(a) the public security issue ends on or before 31 December of that year; and

(b) the proceeds or the portion of the proceeds is used to compensate or repay the acquisition cost of qualifying shares acquired by the qualified mutual fund at a particular time during the 90-day period that precedes the date on which the public security issue ends.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 121.

Undertaking by a qualified mutual fund.

965.120. A qualified mutual fund that intends to make a public security issue and to acquire qualifying shares with the expected proceeds of the public security issue shall stipulate in the final prospectus relating to the issue that it undertakes to satisfy the conditions set out in subparagraphs *a* and *b* of the second paragraph of section 965.119.

History: 2006, c. 13, s. 80.

Election.

965.121. A qualified mutual fund that makes, in a particular year, a public security issue consisting of securities that may be included in a stock savings plan II and is making its first such public security issue may, instead of stipulating in the final prospectus relating to their issue that it undertakes to meet the requirements set out in section 965.119, elect to stipulate in the final prospectus that it undertakes to meet the following requirements or may, once it has stipulated that it undertakes to meet the requirements set out in section 965.119, elect instead to undertake to meet the following requirements by sending to the Minister and to the Autorité des marchés financiers a written notice to that effect on or before 31 December in the year in which the receipt for the final prospectus relating to their issue was obtained:

(a) to use a determined percentage, which must be the same throughout any particular year during which securities are issued as part of the security issue, not lower than 50%, of the proceeds, for the particular year, of the issue of securities not redeemed by the qualified mutual fund on or before 31 December in the particular year, to acquire, on or before 31 December in the year following the particular year, qualifying shares that are issued by qualified issuing corporations;

(b) to cause the proportion, expressed as a percentage, that the adjusted cost is of the cost, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs, to the qualified mutual fund, of the aggregate of all qualifying shares described in paragraph *a* that the qualified mutual fund has undertaken to acquire in accordance with that paragraph *a* on or before 31 December in the year following the particular year, to be equal to or greater than the determined percentage, not lower than 50%, stated in that respect by the qualified mutual fund, in respect of the public security issue, in the final prospectus relating to their issue or in the written notice to be sent by the qualified mutual fund to the Minister and to the Autorité des marchés financiers, as the case may be;

(c) to acquire, on or before 31 December in the particular year, qualifying shares with the proceeds, for the particular year, of the public security issue, that are not the subject of the undertaking under paragraph *a* and are not qualifying shares having already been used, in respect of the particular year, for the purposes of paragraph *d*, and whose adjusted cost is not less than the amount by which the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the particular year and constituting valid qualifying securities exceeds the particular amount equal to the lesser of the proceeds of the issue of securities constituting, for the particular year, valid qualifying securities and the amount obtained by applying to the portion, that is the subject of the undertaking under paragraph *a*, of the proceeds, for the particular year, of the public security issue, the percentage determined under paragraph *b* in respect of the public security issue;

(d) to acquire, on or before 31 December in the year following the particular year, qualifying shares described in paragraph *a* with the proceeds, for the particular year, of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year, for the purposes of paragraph *c*, and whose adjusted cost is equal to or greater than the particular amount referred to in paragraph *c* in respect of the particular year;

(e) to be the owner, on 31 December in the particular year and in each of the following two years, of shares that are qualifying shares or valid shares, other than qualifying shares or valid shares having already been used, in respect of the same year, for the purposes of paragraph *f* or of this paragraph, and whose adjusted cost is equal to or greater than the amount by which the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the particular year and not redeemed by the qualified mutual fund on 31 December in the particular year and on 31 December in each of the two years following the particular year, respectively, as the case may be, exceeds the particular amount referred to in paragraph *c* in respect of the particular year;

(f) to be the owner, on 31 December in each of the three years following the particular year, of shares that are

qualifying shares or valid shares, other than qualifying shares or valid shares having already been used, in respect of the same year, for the purposes of this paragraph, and whose adjusted cost is equal to or greater than the particular amount referred to in paragraph *c* in respect of the particular year; and

(g) to ensure, in relation to a qualifying share acquired by the qualified mutual fund, that no coverage deficiency amount may be computed in respect of an individual who has acquired a qualifying security as part of a public security issue.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 122.

Stipulation requirement.

965.122. If a qualified mutual fund stipulates, in a final prospectus relating to a public security issue, the percentage to be used for the purposes of paragraph *a* of section 965.124, it shall also stipulate the portion of the adjusted cost of the qualifying security to be considered as the portion that may reasonably be allocated to the purchase of qualifying shares referred to in section 965.123.

History: 2006, c. 13, s. 80.

CHAPTER V ADJUSTED COST

Adjusted cost of qualifying share.

965.123. The adjusted cost of a qualifying share to an individual or a qualified mutual fund is obtained by multiplying the cost of the qualifying share to the individual or the qualified mutual fund, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs related to the qualifying share, by

(a) 150% in the case of a qualifying share acquired by the individual or the qualified mutual fund after 19 March 2009 and before 1 January 2011; or

(b) 100% in the case of any other qualifying share acquired by the individual or the qualified mutual fund.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 123.

Adjusted cost of qualifying security.

965.124. The adjusted cost of a qualifying security to an individual is the amount obtained by multiplying the cost of the security to the individual, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs related to the security, by

(a) the percentage stipulated in that respect in the final prospectus relating to its issue; or

(b) if it is so stipulated in the final prospectus relating to its issue, the percentage determined not later than 60 days after

the year of its issue and equal to such proportion as is represented,

i. in respect of a qualified mutual fund that has undertaken to meet the requirements set out in section 965.119 in respect of the public security issue as part of which the qualifying security was issued, by the proportion that the adjusted cost of the aggregate of all qualifying shares acquired in that year by the qualified mutual fund with the proceeds of the public issue of securities that are valid qualifying securities in respect of the year is of the proceeds of the issue, and

ii. in respect of a qualified mutual fund that has undertaken to meet the requirements set out in section 965.121 in respect of the public security issue as part of which the qualifying security was issued, by the proportion that the aggregate of the adjusted cost of the aggregate of all qualifying shares that are the subject of the undertaking given by the qualified mutual fund in respect of the public security issue in accordance with paragraph *a* of that section and that may be acquired by it for an amount equal to the particular amount referred to in paragraph *c* of that section in respect of the year, and the adjusted cost of the aggregate of all qualifying shares acquired by the qualified mutual fund in that year with that portion of the proceeds of the public issue of securities that are valid qualifying securities in respect of that year in excess of the particular amount is of the proceeds of the public issue of securities that are valid qualifying securities in respect of that year.

History: 2006, c. 13, s. 80.

Adjusted cost of valid share.

965.125. The adjusted cost of a share that is a valid share to an individual or a qualified mutual fund is obtained by multiplying the cost of the share to the individual or the qualified mutual fund, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs related to the share, by

(a) 150% in the case of a valid share acquired by the individual or the qualified mutual fund after 19 March 2009 and before 1 January 2011; or

(b) 100% in the case of any other valid share acquired by the individual or the qualified mutual fund.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 124.

CHAPTER VI DEDUCTION

Share or security included in an SME growth stock plan.

965.126. An individual resident in Québec on 31 December in a year who acquires during the year a qualifying share or qualifying security that the individual includes in a stock savings plan II under which the individual is a beneficiary, may deduct in computing the individual's taxable income for the year, in respect of the aggregate of

such plans, an amount not exceeding the lesser of the amounts determined by the following formulas:

(a) $A + B$; and

(b) $(C - D) - (E - F)$.

Interpretation.

In the formulas in the first paragraph,

(a) *A* is the adjusted cost of the qualifying shares that the individual acquired during the year and included in those plans on or before 31 January of the following year;

(b) *B* is the adjusted cost of the qualifying securities that the individual acquired during the year and included in those plans on or before 31 January of the following year, and that are valid qualifying securities in respect of the year;

(c) *C* is the adjusted cost of the shares and securities included in those plans, at the end of the year, including those that the individual acquired in the year and included in those plans on or before 31 January of the following year;

(d) *D* is the individual's coverage deficiency amounts for the year and for each of the preceding two years;

(e) *E* is the amounts that the individual deducted under section 726.4.0.1 for the preceding two years; and

(f) *F* is any amount described in section 310 that the individual was required to include in computing the individual's income for the preceding year in respect of a stock savings plan II.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 125.

Maximum deduction.

965.127. The amount of the deduction under section 965.126 in respect of an individual is not to exceed 10% of the individual's total income for the year.

History: 2006, c. 13, s. 80.

CHAPTER VII INCLUSION

Amount to be included.

965.128. An individual resident in Québec on 31 December in a year who withdraws during the year a share or security from a stock savings plan II under which the individual is a beneficiary, is required to include in computing the individual's income for the year, in respect of the aggregate of such plans, the lesser of the amounts determined by the following formulas:

(a) $A + B$; and

(b) $(C - D) - (E - F)$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the adjusted cost of the shares and securities withdrawn by the individual from those plans during the year;

(b) B is the individual's coverage deficiency amounts for the year;

(c) C is the amounts that the individual deducted under section 726.4.0.1 for the preceding two years;

(d) D is any amount described in section 310 that the individual was required to include in computing the individual's income for the preceding year in respect of a stock savings plan II;

(e) E is the adjusted cost of the shares and securities included in those plans, at the end of the year, including those that the individual acquired in the year and included in those plans during the month of January of the following year; and

(f) F is the individual's coverage deficiency amounts for the year and for each of the preceding two years.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 126.

Coverage deficiency amount.

965.129. A coverage deficiency amount in respect of an individual means, in respect of a particular withdrawal from a stock savings plan II at a particular time, the amount determined by the formula

$$(A + B) - (C + D).$$

Interpretation.

In the formula in the first paragraph,

(a) A is the adjusted cost of the qualifying shares withdrawn from the plan at the particular time referred to in the first paragraph;

(b) B is the adjusted cost of the qualifying securities withdrawn from the plan at the particular time referred to in the first paragraph;

(c) C is the adjusted cost of the qualifying shares and valid shares acquired after the particular time referred to in the first paragraph and included in the plan on or before the last day of the second month following the month in which the particular withdrawal occurred; and

(d) D is the adjusted cost of the qualifying securities acquired after the particular time referred to in the first paragraph and included in the plan on or before the last day

of the second month following the month in which the particular withdrawal occurred.

History: 2006, c. 13, s. 80; 2006, c. 36, s. 94; 2009, c. 5, s. 393; 2010, c. 5, s. 127.

**CHAPTER VIII
SPECIAL CASES****Deemed disposition.**

965.130. Subject to the second paragraph, the deemed disposition, under any of sections 299, 436 and 440, of a share included in a stock savings plan II does not entail the withdrawal of the share from the plan.

Exception.

If an amount was deducted for a year under section 726.4.0.1 in respect of a particular security that is a qualifying share or a qualifying security and if the deduction relates, directly or through a qualified mutual fund, to shares of a corporation that became a bankrupt in a particular year, the particular security is deemed withdrawn from the stock savings plan II on 1 January of the third year following the year of the deduction or, if it is later, at the time in the particular year when the corporation became a bankrupt.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 128.

Splitting or replacement of a share.

965.131. The splitting or replacement of a qualifying share included in a stock savings plan II, as a result of a transaction referred to in any of sections 536, 541 and 544, without any consideration other than a share, does not entail the withdrawal of the qualifying share from the plan if the requirement set out in section 965.75 is met in relation to each share issued in respect of the qualifying share that is split or replaced.

Presumption.

In such a case, each new share so issued is deemed to be a qualifying share that was included in a stock savings plan II at the same time as the qualifying share that is split or replaced.

Presumption.

In any other case, the qualifying share that is split or replaced is deemed to be withdrawn from the stock savings plan II at the time of the splitting or replacement, at the adjusted cost determined in its respect immediately before that time.

History: 2006, c. 13, s. 80; 2010, c. 5, s. 129.

Adjusted cost.

965.132. In the case provided for in the second paragraph of section 965.131, the adjusted cost of each qualifying share that is split or replaced, or of each new share that is issued, is equal to the adjusted cost of the qualifying share that is split

or replaced, determined immediately before the splitting or replacement, divided by the number of shares resulting from the splitting or replacement.

History: 2006, c. 13, s. 80.

Rules applicable.

965.133. In the case of the splitting or replacement of a qualifying share owned by a qualified mutual fund, as a result of a transaction referred to in any of sections 536, 541 and 544, without any consideration other than a share, the following rules apply:

(a) each new share so issued is deemed to be a qualifying share acquired by the qualified mutual fund at the same time and with the same funds as the qualifying share that is split or replaced; and

(b) the adjusted cost of the qualifying share that is split or replaced, or of each new share that is issued, is equal to the adjusted cost of the qualifying share that is split or replaced, determined immediately before the splitting or replacement, divided by the number of shares resulting from the splitting or replacement.

History: 2006, c. 13, s. 80.

TITLE VII

LIFE INSURANCE POLICIES

CHAPTER I

GENERAL RULES

Definitions:

966. In this Title and sections 92.11 to 92.19,

“disposition”;

(a) “disposition”, in relation to an interest in a life insurance policy, includes the surrender of the policy, a policy loan made after 31 March 1978 in respect of the policy, the dissolution of that interest by virtue of the maturity of the policy, the disposition of that interest by operation of law only, and a particular payment which is not an annuity payment, a policy loan or a policy dividend and which is paid by the insurer in respect of the policy where the latter is not a policy contemplated in the second paragraph of section 968 and is a life annuity contract, within the meaning of the regulations, entered into after 16 November 1978 and before 13 November 1981, but does not include

- i. a payment under a policy as a disability benefit or as an accidental death benefit;
- ii. the assignment of all or any part of an interest in the policy for the purpose of securing a debt or a loan other than a policy loan;
- iii. the lapse of the policy in consequence of non-payment of the premiums, if the policy was reinstated within the 60 days after the end of the calendar year in which the lapse occurred;

iv. an annuity payment;

v. a payment made under the policy in consequence of the death of any person whose life was insured under the policy if the policy is not an annuity contract and if it was last acquired before 2 December 1982 or is an exempt policy;

vi. any event or transaction by which an individual becomes entitled to receive, under the terms of an exempt policy, all of the proceeds, including or excluding policy dividends, payable under the policy in the form of an annuity contract or annuity payments, if, at the time of the event or transaction, the individual whose life is insured under the policy was totally and permanently disabled;

“insurer”;

“insurer” or “life insurer”;

(a.1) “insurer” or “life insurer” includes a person who is licensed or otherwise authorized under a law of Canada or a province to issue contracts that are annuity contracts;

“policy loan”;

(a.1.1) “policy loan” means an amount advanced by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy;

“child”;

(a.2) “child” of a policyholder includes a child as defined in subparagraph *d* of the first paragraph of section 451;

“segregated fund trust”;

“segregated fund trust”, “segregated fund”, “interest” and “amount payable”;

(b) “segregated fund trust”, “segregated fund”, “interest” and “amount payable” have the meaning assigned by section 835;

“person whose life was insured”;

(b.1) “person whose life was insured” includes an annuitant under a life annuity contract, within the meaning of the regulations, entered into before 17 November 1978;

(b.2) *(paragraph repealed)*;

(b.3) “premium” under a life insurance policy includes a prepaid premium under the policy which is refundable only on termination or cancellation of the policy and interest paid after 31 December 1977 to a life insurer in respect of a policy loan in respect of the policy, except such interest deductible after 31 December 1980 in accordance with sections 160 to 163.1, but does not include the portion of any amount paid under the policy with respect to an accidental death benefit, a disability benefit, an additional risk as a result of insuring a substandard life, an additional risk in respect of the conversion of a term policy into another policy after the end of the year, an additional risk under a settlement option, or an additional risk under a guaranteed insurability benefit, if

i. in the case of an annuity contract, a policy issued before 1 January 2017 or a policy in respect of which the particular time at which the policy is issued is determined under section 967.1, where the interest in the policy was last acquired after 1 December 1982, the payment is made after 31 May 1985 and, if the particular time at which the policy is issued is determined under section 967.1, before the particular time, or

ii. in the case where the individual's interest in the policy was last acquired before 2 December 1982, subsection 9 of section 12.2 of the Income Tax Act (Revised Statutes of Canada, 1952, chapter 148) applies to the interest, the particular time at which the policy is issued is determined under section 967.1 and the payment is made in the period that starts on the later of 31 May 1985 and the first day on which that subsection 9 applies in respect of the interest and that ends at the particular time;

“proceeds of the disposition”;

(b.4) “proceeds of the disposition” of an interest in a life insurance policy means the amount of the proceeds that the policyholder, beneficiary or assignee, as the case may be, is entitled to receive on a disposition of such interest and also means,

i. in respect of a surrender or maturity of the policy, the amount by which the cash surrender value of that interest in the policy at the time of surrender or maturity, excluding that portion of the cash surrender value that is applicable to a policyholder's interest in the segregated fund trust related to that policy as referred to in section 851.11, exceeds the aggregate of all amounts each of which is

(1) an amount that reduces, because of the disposition, the amount payable in respect of a policy loan in respect of the policy but, in the case where the policy is issued after 31 December 2016, the disposition is of a part of the interest and, if the particular time at which the policy is issued is determined under section 967.1, the disposition occurs at or after the particular time, only to the extent that the amount represents the portion of the loan applied, immediately after the loan, to pay a premium under the policy, as provided for under the terms and conditions of the policy,

(2) a premium under the policy that is due but unpaid at that time, or

(3) an amount applied, immediately after the time of the surrender, to pay a premium under the policy, as provided for under the terms and conditions of the policy;

ii. in respect of a policy loan in respect of that policy made after 31 March 1978, the lesser of

(1) the amount of the loan, other than the part thereof applied, immediately after the loan, to pay a premium under the policy, as provided for under the terms and conditions of the policy, and

(2) the amount by which the cash surrender value of the policy immediately before the loan is made exceeds the aggregate of the amounts outstanding at that time in respect of policy loans in respect of the policy;

iii. in respect of a particular payment referred to in paragraph *a*, the amount of the payment;

iv. in respect of a deemed disposition described in paragraph *b* of section 967, the accumulating fund in respect of the interest, as determined in prescribed manner, immediately before the time of death in respect of a life insurance policy other than an annuity contract, last acquired after 1 December 1982, or immediately after the time of death in respect of an annuity contract;

“value”;

(c) “value”, at a particular time, of an interest in a life insurance policy means, when the interest includes an interest in the cash surrender value of the policy, the amount to which the holder of the interest would be entitled if the policy were surrendered at that time; such value is nil in other cases; and

“cash surrender value”.

(d) “cash surrender value” at a particular time of a life insurance policy means its cash surrender value at that time computed without regard to any policy loans made under the policy, any policy dividends, other than paid-up additions, payable under the policy or any interest payable on such dividends.

History: 1972, c. 23, s. 698; 1973, c. 18, s. 26; 1978, c. 26, s. 181; 1980, c. 13, s. 96; 1981, c. 12, s. 11; 1984, c. 15, s. 222; 1986, c. 15, s. 151; 1986, c. 19, s. 173; 1991, c. 25, s. 158; 1993, c. 16, s. 312; 1994, c. 22, s. 304; 1996, c. 39, s. 273; 2001, c. 53, s. 205; 2003, c. 2, s. 260; 2004, c. 8, s. 172; 2006, c. 13, s. 81; 2019, c. 14, s. 283.

Corresponding Federal Provision: 70(10), 138.1(1)(a) and (12) and 148(9) and (10).

Application of ss. 92.11 to 92.19.

966.1. For the purposes of this Title and sections 92.11 to 92.19,

(a) a policyholder who holds an interest in a life insurance policy since its issue is deemed to have acquired the interest on the later of the date on which the policy came into force and the date on which the application in respect of the policy signed by the policyholder was filed with the insurer;

(b) except as otherwise provided, a policyholder is deemed not to have acquired or disposed of an interest in a life insurance policy, other than an annuity contract, as a result only of the exercise of any provision of the policy, other than a conversion of the policy into an annuity contract; and

(c) where section 92.17 does not apply to an interest in a life insurance policy, other than an annuity contract, last acquired before 2 December 1982 that has been acquired by a

taxpayer from a person with whom he was not dealing at arm's length, the interest is deemed to have been last acquired by the taxpayer before 2 December 1982.

History: 1984, c. 15, s. 223; 1986, c. 15, s. 152; 1991, c. 25, s. 159; 1993, c. 16, s. 313; 2001, c. 53, s. 206.

Corresponding Federal Provision: 148(1)(c) to (e).

Application of ss. 157.5, 968, 976 and 976.1.

967. For the purposes of sections 157.5, 968, 976 and 976.1,

(a) a policyholder who, at any time, becomes entitled to receive under a life insurance policy, a particular amount as, on account or in lieu of payment of, or in satisfaction of, a policy dividend is deemed

i. to have disposed of an interest in the policy at that time, and

ii. to have become entitled to receive proceeds of the disposition of the interest equal to the amount by which

(1) the particular amount exceeds

(2) the part of the particular amount applied immediately after that time to pay a premium under the policy or to repay a policy loan under the policy, as provided for under the terms and conditions of the policy;

(b) where in a taxation year, the holder of an interest in a life insurance policy or in an annuity contract dies or where the person whose life was insured or who was an annuitant under the contract or policy dies,

i. the policyholder, where the policy was last acquired after 1 December 1982 and is not an exempt policy or an annuity contract, is deemed to dispose of his interest in the policy immediately before the death and the policyholder immediately after such death is deemed to have acquired the interest at a cost equal to the accumulating fund in respect of that interest, as determined in prescribed manner, immediately after the death; and

ii. the holder of the contract, where the contract is neither a life annuity contract within the meaning of the regulations under section 966, entered into before 13 November 1981, nor a prescribed annuity contract is deemed to dispose of his interest in the contract immediately before the death and the holder of the contract immediately after the death is deemed to have acquired the interest at a cost equal to the accumulating fund in respect of that interest, as determined in prescribed manner, immediately after the death;

(c) where a life insurance policy last acquired after 1 December 1982, or a life insurance policy to which section 92.17 applies by virtue of a prescribed increase of a death benefit under the policy, ceases to be an exempt policy, the policyholder is deemed to dispose of his interest in the

policy at that time for proceeds of disposition equal to the accumulating fund with respect to the interest, as determined in prescribed manner, at that time and to reacquire the interest immediately after that time at a cost equal to such proceeds unless the policy ceased to be an exempt policy in consequence of the death of an individual whose life was insured under the policy or at a time when that individual was totally and permanently disabled;

(d) where, in respect of a life insurance policy issued after 31 December 2016 that is an exempt policy, a death benefit, within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), under a coverage, within the meaning of paragraph *b* of the definition of that expression in the first paragraph of that section 92.11R1, under the policy is paid at a particular time, the payment results in the termination of the coverage but not the policy and the amount of the fund value benefit, within the meaning of that section 92.11R1, paid in respect of the coverage at that time exceeds the amount determined in respect of the coverage under subparagraph 1 of subparagraph *i* of subparagraph *b* of the second paragraph of section 92.19R4 of that Regulation on the policy anniversary, within the meaning of section 92.11R1 of that Regulation, that is on, or that first follows, the date of the death of an individual whose life is insured under the coverage, a policyholder with an interest in the policy that gives rise to an entitlement of the policyholder to receive all or a portion of that excess as a policyholder, beneficiary or assignee, as the case may be, is deemed, at that time, to dispose of a part of the interest and to be entitled to receive proceeds of the disposition equal to that excess or portion, as the case may be.

History: 1972, c. 23, s. 699; 1978, c. 26, s. 182; 1984, c. 15, s. 224; 1986, c. 19, s. 174; 1993, c. 16, s. 314; 1994, c. 22, s. 305; 1996, c. 39, s. 273; 2001, c. 53, s. 207; 2019, c. 14, s. 2842019, c. 14, s. 284.

Corresponding Federal Provision: 148(2).

Loss of grandfathering.

967.1. For the purpose of determining, as of a particular time, whether a life insurance policy (other than an annuity contract) issued before 1 January 2017 is treated as issued after 31 December 2016 for the purposes of this Title (except this section), Divisions I, II and IV of Chapter IV of Title XI of the Regulation respecting the Taxation Act (chapter I-3, r. 1) and Chapter VIII of Title XXXV of that Regulation, the policy is deemed to be a policy issued at the particular time if the particular time is the first time after 31 December 2016 at which life insurance—in respect of a life, or two or more lives jointly insured, and in respect of which a particular schedule of premium or cost of insurance rates applies—is

(a) converted into another type of life insurance, other than only because of a change in premium or cost of insurance rates; or

(b) added to the policy, if the insurance (other than insurance paid for with policy dividends or that is reinstated) is medically underwritten after 31 December 2016, other than to obtain a reduction in the premium or cost of insurance rates under the policy.

History: 2019, c. 14, s. 285.

Corresponding Federal Provision: 148(11).

CHAPTER II COMPUTATION OF THE POLICYHOLDER'S INCOME AND ABATEMENT

Disposition of an interest in a life insurance policy.

968. A policyholder must include in computing his income for a taxation year in respect of the disposition of an interest in a life insurance policy, the excess of the proceeds of disposition of such interest in the policy that the holder, beneficiary or assignee, as the case may be, of the policy becomes entitled to receive in the year over the adjusted cost basis, to the holder, of such interest immediately before the disposition.

Exclusions.

For the purposes of the first paragraph, a life insurance policy does not include a policy that is, or is issued pursuant to, a registered pension plan, a pooled registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, a registered retirement income fund, a tax-free savings account, an income-averaging annuity contract, an income-averaging annuity contract respecting income from artistic activities, an annuity contract the cost of which is deductible by the holder under paragraph *f* of section 339 in computing the holder's income, an annuity contract that is a qualifying trust annuity in relation to a taxpayer the cost of which is deductible under that paragraph *f* in computing the taxpayer's income or an annuity contract that the holder acquired in circumstances to which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied.

History: 1972, c. 23, s. 700; 1978, c. 26, s. 183; 1980, c. 13, s. 97; 1984, c. 15, s. 224; 1986, c. 19, s. 175; 1991, c. 25, s. 160; 1994, c. 22, s. 306; 1995, c. 49, s. 221; 2001, c. 53, s. 208; 2005, c. 23, s. 132; 2009, c. 15, s. 176; 2015, c. 21, s. 352.

Corresponding Federal Provision: 148(1).

Amount to be included.

968.1. A taxpayer must include in computing his income for a taxation year in respect of the disposition of an interest in a life insurance policy that is a policy referred to in section 968 and, which is a life annuity contract, within the meaning of the regulations under section 966 entered into after 16 November 1978 and before 13 November 1981, the amount by which a particular payment referred to in paragraph *a* of section 966 that he becomes entitled to receive in the year exceeds the amount that would be the adjusted cost basis to him of his interest in the policy

immediately before the disposition if, for the purposes of sections 976 and 976.1, he were, in respect of that interest in the policy, the policyholder.

History: 1980, c. 13, s. 98; 1984, c. 15, s. 224; 1986, c. 19, s. 176.

Corresponding Federal Provision: 148(1.1).

969. (*Repealed*).

History: 1973, c. 17, s. 110; 1978, c. 26, s. 184.

Proceeds of policy paid as annuity.

970. Where the holder of a life insurance policy, other than an annuity contract, last acquired before 2 December 1982 becomes, under the terms of the policy, entitled to receive from the insurer, at any time before the death of the person insured under such policy, all of the proceeds payable at that time, other than policy dividends, under the policy in the form of an annuity contract or annuity payments, the following rules apply:

(a) the payments shall be regarded as annuity payments made under an annuity contract;

(b) the purchase price of the annuity contract is deemed to be the adjusted cost basis of the policy to the holder immediately before the first payment under that contract becomes payable; and

(c) the annuity contract or annuity payments are deemed not to be the proceeds of disposition of an interest in the policy.

History: 1972, c. 23, s. 702; 1984, c. 15, s. 225; 1986, c. 19, s. 177.

Corresponding Federal Provision: 148(6).

Disposition by gift or distribution.

971. Where, at a particular time, a policyholder in a life insurance policy disposes in any manner whatever of the policyholder's interest in the policy to a person with whom the policyholder is not dealing at arm's length or disposes, by gift, by distribution from a corporation or by operation of law only, of the interest to a person, the following rules apply:

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

i. the value of the interest at the particular time,

ii. if the particular time is after 21 March 2016, the greater of

(1) the fair market value of the consideration given, if any, for the interest at the particular time, and

(2) the adjusted cost basis to the policyholder of the interest immediately before the particular time, and

iii. if the particular time is before 22 March 2016, an amount equal to zero;

(b) the person to whom the disposition is made is deemed to acquire the interest, at the particular time, at a cost equal to the amount determined in accordance with subparagraph *a*, in respect of the disposition;

(c) any contribution of capital to a corporation or partnership in connection with the disposition is deemed, to the extent that it exceeds the amount determined in accordance with subparagraph *i* of subparagraph *a* in respect of the disposition, not to result in a contribution of capital for the purpose of applying paragraphs *e* and *i* of section 255 at or after the particular time;

(d) any contributed surplus of a corporation that arose in connection with the disposition is deemed, to the extent that it exceeds the amount determined in accordance with subparagraph *i* of subparagraph *a* in respect of the disposition, not to be contributed surplus for the purpose of applying section 504 at or after the particular time; and

(e) if the particular time is before 22 March 2016,

i. subparagraphs *c* and *d* apply only in respect of a disposition that occurs after 31 December 1999 and only if at least one person whose life was insured under the policy before 22 March 2016 is alive on that date, and subparagraphs *c* and *d*, where they apply in respect of the disposition, are to be read as if “the particular time” were replaced by “the beginning of 22 March 2016”, and

ii. where any consideration given for the interest includes a share of the capital stock of a corporation, the share (or a share substituted for the share) is disposed of after 21 March 2016 by a taxpayer and section 517.2 applies in respect of the share disposition, then for the purpose of applying Chapter III.1 of Title IX of Book III, the adjusted cost base to the taxpayer of the share immediately before the share disposition is to be reduced by the amount determined by the formula

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

Formula elements.

In the formula in the first paragraph,

(a) *A* is the aggregate of all amounts each of which is the fair market value at the particular time of a share of that capital stock given as consideration for the interest;

(b) *B* is the greater of the amount determined under subparagraph *i* of subparagraph *a* of the first paragraph in respect of the disposition of the interest and the adjusted cost basis to the policyholder of the interest immediately before the disposition of the interest;

(c) *C* is the fair market value at the particular time of the consideration given for the interest, if any; and

(d) *D* is the total number of shares of that capital stock given as consideration for the interest.

Provision not applicable.

However, the first paragraph does not apply in the case of a deemed disposition described in paragraph *b* of section 967.

History: 1972, c. 23, s. 703; 1978, c. 26, s. 185; 1984, c. 15, s. 225; 1997, c. 3, s. 71; 2019, c. 14, s. 286.

Corresponding Federal Provision: 148(7).

Transfer of interest.

971.1. Notwithstanding any other provision in this Title, where an interest in a life insurance policy other than an annuity contract has been transferred to the policyholder’s child for no consideration and a child of the policyholder or a child of the transferee is the person whose life is insured under the policy, the interest is deemed to have been disposed of by the policyholder for proceeds of disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and the transferee is deemed to have acquired the interest at a cost equal to those proceeds.

History: 1986, c. 15, s. 153; 1986, c. 19, s. 178; 1993, c. 16, s. 315.

Corresponding Federal Provision: 148(8).

Inter vivos transfer to spouse.

971.2. Notwithstanding any other provision of this Title, where an interest of a policyholder in a life insurance policy, other than a policy referred to in the second paragraph of section 968, has been transferred to the policyholder’s spouse or a former spouse of the policyholder in settlement of rights arising out of their marriage, and both the policyholder and the transferee were resident in Canada at the time of the transfer, the interest is deemed to have been disposed of by the policyholder for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the transferee at a cost equal to those proceeds.

Exception.

The first paragraph does not apply where the policyholder makes a valid election under subsection 8.1 of section 148 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to have that subsection not apply in respect of the transfer.

History: 1993, c. 16, s. 316; 1994, c. 22, s. 307; 1997, c. 85, s. 227.

Corresponding Federal Provision: 148(8.1).

Transfer to spouse at death.

971.3. Notwithstanding any other provision of this Title, where, as a consequence of the death of a policyholder who was resident in Canada immediately before the policyholder’s death, an interest in a life insurance policy, other than a policy referred to in the second paragraph of section 968, has been transferred or distributed to the

policyholder's spouse who was resident in Canada immediately before the policyholder's death, the interest is deemed to have been disposed of by the policyholder immediately before the policyholder's death for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the spouse at a cost equal to those proceeds.

Exception.

The first paragraph does not apply where the policyholder makes a valid election under subsection 8.2 of section 148 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to have that subsection not apply in respect of the transfer.

History: 1993, c. 16, s. 316; 1997, c. 85, s. 228; 2009, c. 5, s. 394.

Corresponding Federal Provision: 148(8.2).

Policies regarding which reserves vary.

972. For the purposes of this Title, where all or part of the reserves of an insurer in respect of a life insurance policy vary with the fair market value of the assets of a segregated fund, the proceeds of disposition of an interest in the policy are deemed not to include the portion of such proceeds payable out of the segregated fund.

History: 1972, c. 23, s. 704; 1978, c. 26, s. 186.

Corresponding Federal Provision: 148(3)(b).

973. *(Repealed).*

History: 1972, c. 23, s. 705; 1978, c. 26, s. 187.

974. *(Repealed).*

History: 1975, c. 21, s. 24; 1975, c. 22, s. 228; 1976, c. 18, s. 16; 1978, c. 26, s. 188.

975. *(Repealed).*

History: 1972, c. 23, s. 706; 1978, c. 26, s. 189.

CHAPTER III
COMPUTATION OF THE ADJUSTED COST BASIS

Adjusted cost basis.

976. In this Title and in sections 92.11 to 92.19, the adjusted cost basis to the holder of life insurance policy of his interest in the policy at a particular time means the amount by which the amount computed under section 976.1 is exceeded by the aggregate of:

(a) the cost to him of each interest acquired by him in the policy before that particular time but not including an amount referred to in paragraph *b* or *d*;

(b) the amounts paid before that particular time by him or on his behalf in respect of a premium under the policy, other than amounts referred to in subparagraph 3 of subparagraph i

of paragraph *b.4* of section 966, in subparagraph 1 of subparagraph ii of that subparagraph *b.4* or in subparagraph 2 of subparagraph ii of paragraph *a* of section 967;

(c) the amounts in respect of the disposition of an interest in the policy before that particular time that he was required to include in computing his income or his income earned in Canada as determined under Part II for a taxation year;

(d) the amounts in respect of the repayment, before the particular time and after 31 March 1978, of a policy loan, without exceeding the amount determined under section 976.0.1;

(e) the amount by which the cash surrender value of the policy as at its first anniversary date after 31 March 1977 exceeds the adjusted cost base, determined under the provisions of this Part which were then applicable but without taking sections 978 and 979 into account, of his interest in the policy on that anniversary date;

(f) the amounts in respect of his interest in the policy that he included in computing his income for any taxation year ending before the particular time by virtue of section 92 or sections 92.11 to 92.19;

(g) the amounts paid to him in respect of his interest in the policy to the extent to which prescribed tax was imposed on them before the particular time;

(h) in the case of an interest in a life annuity contract, within the meaning of the regulations under section 966, to which section 92.11 applies for the taxation year that includes the particular time or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest, all amounts each of which is a mortality gain, within the meaning of the regulations and determined by the issuer of the contract in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year commencing before the particular time; and

(i) in the case of an interest in a life insurance policy, other than an annuity contract, to which section 971.3 applied before the particular time, all amounts each of which is a mortality gain, within the meaning of the regulations and determined by the issuer of the policy in accordance with the regulations, in respect of the interest immediately before the end of the calendar year that ended in a taxation year that began before the particular time.

History: 1972, c. 23, s. 707; 1978, c. 26, s. 190; 1980, c. 13, s. 99; 1982, c. 5, s. 173; 1984, c. 15, s. 226; 1985, c. 25, s. 141; 1986, c. 19, s. 179; 1991, c. 25, s. 161; 1993, c. 16, s. 317; 1994, c. 22, s. 308; 1998, c. 16, s. 215; 2001, c. 53, s. 209; 2019, c. 14, s. 287.

Corresponding Federal Provision: 148(9) "adjusted cost basis" A to G.1.

Amount.

976.0.1. The amount to which paragraph *d* of section 976 refers in respect of a policy loan referred to in that paragraph is determined by the formula

A – B.

Formula elements.

In the formula in the first paragraph,

(a) A is the aggregate of

- i. the proceeds of the disposition in respect of the loan,
- ii. if the policy is issued after 31 December 2016 and, in the case where the particular time at which the policy is issued is determined under section 967.1, the repayment is at or after the particular time, the portion of the loan applied, immediately after the loan, to pay a premium under the policy as provided for under the terms and conditions of the policy, except to the extent that the portion is described in subparagraph 1 of subparagraph i of paragraph *b.4* of section 966, and
- iii. the amount described in paragraph *b* of section 976.1, but not including any payment of interest in respect of the loan; and

(b) B is the aggregate of all amounts each of which is an amount in respect of a repayment of the loan that is deductible under paragraph *k* of section 157, as it read before being struck out, or paragraph *i* of section 336, or referred to in subparagraph 2 of subparagraph ii of paragraph *a* of section 967.

History: 2019, c. 14, s. 288.

Corresponding Federal Provision: 148(9) « coût de base rajusté » E.1 et E.2.

Repayment of policy loan on partial surrender.

976.0.2. For the purposes of paragraph *i* of section 336 and sections 976 and 976.0.1, a particular amount is deemed to be a repayment made at a particular time by a taxpayer in respect of a policy loan in respect of a life insurance policy if

- (a) the policy is issued after 31 December 2016;
- (b) the taxpayer disposes of a part of the taxpayer's interest in the policy immediately after the particular time;
- (c) subparagraph *i* of paragraph *b.4* of section 966 applies to determine the proceeds of the disposition of the interest;
- (d) the particular amount is not
 - i. otherwise a repayment by the taxpayer in respect of the policy loan, and

ii. described in subparagraph 1 of subparagraph *i* of paragraph *b.4* of section 966; and

(e) the amount payable by the taxpayer in respect of the policy loan is reduced by the particular amount as a consequence of the disposition.

History: 2019, c. 14, s. 288.

Corresponding Federal Provision: 148(4.01).

Amount subtracted.

976.1. The amount that the holder of a life insurance policy shall subtract from the aggregate determined under section 976 is the aggregate of the following amounts:

- (a) the total proceeds of the disposition of his interests in the policy that he became entitled to receive before the particular time;
- (b) the amount payable on 31 March 1978 in respect of a policy loan in respect of the policy;
- (c) the amount received before the particular time in respect of the policy that he was entitled to deduct under paragraph *f* of section 336 in computing his income for a taxation year;
- (d) the amounts in respect of his interest in the policy that he deducted under section 157.3 in computing his income for a taxation year commencing before the particular time;
- (e) in the case of an interest in a life insurance policy, other than an annuity contract, that was last acquired after 1 December 1982 by the policyholder, all amounts each of which is the net cost of pure insurance, within the meaning of the regulations and determined by the issuer of the policy in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year commencing after 31 May 1985 and before the particular time;
- (f) in the case of an interest in an annuity contract to which section 92.11 applies for the taxation year that includes the particular time, or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest, the annuity payments paid, in respect of the interest, while the policyholder held the interest and before the particular time;
- (g) in the case of an interest in a contract described in paragraph *h* of section 976, all amounts each of which is a mortality loss, within the meaning of the regulations and determined by the issuer of the contract in accordance with the regulations, in respect of the interest before the particular time;
- (h) in the case of a policy that is issued after 31 December 2016 and is not an annuity contract, the aggregate of all amounts each of which is a premium paid by or on behalf of the policyholder, or a cost of insurance charge

incurred by the policyholder, before that time, and, in the case where the particular time at which the policy is issued is determined under section 967.1, at or after that latter particular time, to the extent that the premium or charge is in respect of a benefit under the policy, other than a death benefit within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1);

(i) in the case of a policy that is issued after 31 December 2016 and is not an annuity contract, the aggregate of all amounts each of which is the policyholder's interest in an amount paid before that time and, in the case where the particular time at which the policy is issued is determined under section 967.1, at or after that latter particular time, to the extent that the amount paid reduced the cash surrender value of the policy or the fund value of the life insurance policy, within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act, and that

i. is a death benefit, within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act, or a disability benefit under the policy, and

ii. does not result in the termination of a coverage, within the meaning of paragraph *b* of the definition of that expression in the first paragraph of that section 92.11R1, under the policy; and

(j) in the case of a policy that is issued after 31 December 2016 and is not an annuity contract, if a death benefit, within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act, under a coverage, within the meaning of paragraph *b* of the definition of that expression in the first paragraph of that section 92.11R1, under the policy is paid before that time and, in the case where the particular time at which the policy is issued is determined under section 967.1, at or after that latter particular time, and the payment results in the termination of the coverage, the amount determined under section 976.2 with respect to the coverage.

History: 1984, c. 15, s. 227; 1985, c. 25, s. 142; 1991, c. 25, s. 162; 1993, c. 16, s. 318; 1998, c. 16, s. 251; 2001, c. 53, s. 210; 2019, c. 14, s. 289.

Corresponding Federal Provision: 148(9) “adjusted cost basis” H to L.

Amount described in paragraph *j* of section 976.1.

976.2. The amount to which paragraph *j* of section 976.1 refers in respect of the termination of a coverage under a policy referred to in that paragraph is determined by the formula

$$[A \times (B + C + D)/E] - F.$$

Formula elements.

In the formula in the first paragraph,

(a) A is the adjusted cost basis of the policyholder's interest immediately before the termination;

(b) B is the amount of the fund value of the policy, within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), paid in respect of the coverage on the termination;

(c) C is the amount that would be the present value, determined for the purposes of Division II of Chapter IV of Title XI of the Regulation respecting the Taxation Act, on the last policy anniversary, within the meaning of section 92.11R1 of that Regulation, on or before the termination, of the fund value of the coverage, within the meaning of that section 92.11R1, if the fund value of the coverage on that policy anniversary were equal to the fund value of the coverage on the termination;

(d) D is the amount that, on the policy anniversary referred to in subparagraph *c*, would be determined under subparagraph *f* of the fourth paragraph of section 92.11R1.1 of the Regulation respecting the Taxation Act in respect of the coverage, if the death benefit under the coverage, and the fund value of the coverage, on that policy anniversary were equal to the death benefit under the coverage and the fund value of the coverage, respectively, on the termination;

(e) E is the amount that would be, on the policy anniversary referred to in subparagraph *c*, the net premium reserve, within the meaning of section 92.11R1 of the Regulation respecting the Taxation Act, determined in respect of the policy for the purposes of Division II of Chapter IV of Title XI of that Regulation, if the fund value benefit under the policy, the death benefit under each coverage and the fund value of each coverage on that policy anniversary were equal to the fund value benefit, the death benefit under each coverage and the fund value of each coverage, respectively, under the policy on the termination; and

(f) F is the amount determined under section 977.1 in respect of a disposition before that time of the interest because of paragraph *d* of section 967 in respect of the payment in respect of the fund value benefit under the policy paid in respect of the coverage on the termination.

History: 2019, c. 14, s. 290.

Corresponding Federal Provision: 148(9) « coût de base rajusté » P à U.

Policy regarding which reserves vary.

977. In computing the adjusted cost basis of a policy to a policyholder, where all or any part of the reserves of an insurer in respect of the life insurance policy vary with the fair market value of the property of a segregated fund, the following rules apply:

(a) an amount paid by the policyholder or on his behalf as premiums under the policy or to acquire an interest therein is deemed not to be so paid to the extent that the insurer uses

such amount to acquire property for the purposes of the segregated fund; and

(b) any transfer by the insurer of property derived from the segregated fund that results in an increase in the portion of its reserves in respect of the policy that do not vary with the fair market value of the property of the fund is deemed to be a premium paid by the policyholder under the policy.

History: 1972, c. 23, s. 708; 1986, c. 19, s. 180; 1996, c. 39, s. 273.

Corresponding Federal Provision: 148(3)(a).

Computation of the adjusted cost basis.

977.1. Where a taxpayer disposes of a part of the taxpayer's interest in an annuity contract or a life insurance policy (other than such a contract) last acquired after 1 December 1982, the adjusted cost basis to the taxpayer, immediately before the disposition, of the part is equal to the amount determined by the formula

$$A \times B/C.$$

Formula elements.

In the formula in the first paragraph,

(a) A is the adjusted cost basis to the taxpayer of the taxpayer's interest immediately before the disposition;

(b) B is the proceeds of the disposition; and

(c) C is

i. if the policy is a policy (other than an annuity contract) issued after 31 December 2016, the amount determined by the formula

$D - E$, and

ii. in any other case, the accumulating fund with respect to the taxpayer's interest, as determined in prescribed manner, immediately before the disposition.

Formula elements.

In the formula in subparagraph c of the second paragraph,

(a) D is the interest's cash surrender value immediately before the disposition; and

(b) E is the aggregate of all amounts each of which is an amount payable, immediately before the disposition, by the taxpayer in respect of a policy loan in respect of the policy.

Restriction.

The first paragraph does not apply, however, if the disposition is a policy loan granted after 31 March 1978 in

respect of the policy or is a deemed disposition under paragraph a of section 967.

History: 1984, c. 15, s. 228; 1986, c. 19, s. 181; 2001, c. 53, s. 211; 2019, c. 14, s. 291.

Corresponding Federal Provision: 148(4).

Disposition of an interest in a leveraged insurance policy.

977.2. If a policyholder has after 20 March 2013 and before 1 April 2014 disposed of an interest in a leveraged insurance policy because of a partial or complete surrender of the policy, the policyholder may deduct in computing the policyholder's income for the taxation year in which the disposition occurs an amount that does not exceed the least of

(a) the portion of an amount, included under section 968 in computing the policyholder's income for the year in respect of the disposition, that is attributable to an investment account described in paragraph b of the definition of "leveraged insurance policy" in section 1 in respect of the policy;

(b) the aggregate of all amounts each of which is an amount, to the extent that the amount has not otherwise been included in determining an amount under this paragraph, of a payment made after 20 March 2013 and before 1 April 2014 that reduces the amount outstanding of a borrowing or policy loan, as the case may be, described in paragraph a of the definition of "leveraged insurance policy" in section 1 in respect of the policy; and

(c) the aggregate of all amounts each of which is an amount, to the extent that the amount has not otherwise been included in determining an amount under this paragraph, that the policyholder is entitled to receive as a result of the disposition and that is paid after 20 March 2013 and before 1 April 2014 out of an investment account described in paragraph b of the definition of "leveraged insurance policy" in section 1 in respect of the policy.

History: 2017, c. 1, s. 256.

Corresponding Federal Provision: 148(5).

978. *(Repealed).*

History: 1972, c. 23, s. 709; 1978, c. 26, s. 191.

979. *(Repealed).*

History: 1972, c. 23, s. 710; 1978, c. 26, s. 191.

TITLE VIII
(Repealed).

CHAPTER I
(Repealed).

979.1. (Repealed).

History: 1985, c. 25, s. 143; 2002, c. 45, s. 521; O.C. 45-2004; 2004, c. 37, s. 90; 2007, c. 12, s. 98.

CHAPTER II
(Repealed).

979.2. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

Interpretation Bulletins: IMP. 1015-1/R1.

979.3. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

979.4. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

979.5. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

CHAPTER III
(Repealed).

979.6. (Repealed).

History: 1985, c. 25, s. 143; 2005, c. 23, s. 133; 2007, c. 12, s. 98.

979.7. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

979.8. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

CHAPTER IV
(Repealed).

979.9. (Repealed).

History: 1985, c. 25, s. 143; 2005, c. 23, s. 134; 2007, c. 12, s. 98.

979.10. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

979.11. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

CHAPTER V
(Repealed).

979.12. (Repealed).

History: 1985, c. 25, s. 143; 2005, c. 23, s. 135; 2007, c. 12, s. 98.

979.13. (Repealed).

History: 1985, c. 25, s. 143; 2005, c. 23, s. 135; 2007, c. 12, s. 98.

979.14. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

CHAPTER VI
(Repealed).

979.15. (Repealed).

History: 1985, c. 25, s. 143; 1995, c. 1, s. 199; 1997, c. 31, s. 90; 2007, c. 12, s. 98.

CHAPTER VII
(Repealed).

979.16. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

979.17. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

979.18. (Repealed).

History: 1985, c. 25, s. 143; 2007, c. 12, s. 98.

TITLE IX
ELIGIBLE FUNERAL ARRANGEMENTS

Definitions:

979.19. In this Title,

“cemetery care trust”;

“cemetery care trust” means a trust established pursuant to an Act of a province for the care and maintenance of a cemetery;

“cemetery services”;

“cemetery services” with respect to an individual means property, including interment vaults, markers, flowers, liners, urns, shrubs and wreaths, and services that relate directly to cemetery arrangements in Canada in consequence of the death of the individual including property and services to be funded out of a cemetery care trust;

“custodian”;

“custodian” of an arrangement means

(a) where a trust is governed by the arrangement, a trustee of the trust, and

(b) in any other case, a qualifying person who receives a contribution under the arrangement as a deposit for the provision by the person of funeral or cemetery services;

“eligible funeral arrangement”;

“eligible funeral arrangement” at a particular time means an arrangement established and maintained by a qualifying person solely for the purpose of funding funeral or cemetery services with respect to one or more individuals and of which there is one or more custodians each of whom was resident in Canada at the time the arrangement was established, where

(a) each contribution made before the particular time under the arrangement was made for the purpose of funding funeral or cemetery services to be provided by the qualifying person with respect to an individual; and

(b) for each such individual, the aggregate of all relevant contributions made before the particular time in respect of the individual does not exceed

- i. \$15,000, where the arrangement solely covers funeral services with respect to the individual,
- ii. \$20,000, where the arrangement solely covers cemetery services with respect to the individual, and
- iii. \$35,000, in any other case;

“funeral services”;

“funeral services” with respect to an individual means property and services, other than cemetery services with respect to the individual, that relate directly to funeral arrangements in Canada in consequence of the death of the individual;

“qualifying person”;

“qualifying person” means a person licensed or otherwise authorized under the laws of a province to provide funeral or cemetery services with respect to individuals;

“relevant contribution”.

“relevant contribution” in respect of an individual under a particular arrangement means

(a) a contribution under the particular arrangement, other than a contribution made by way of a transfer from an eligible funeral arrangement, for the purpose of funding funeral or cemetery services with respect to the individual; or

(b) such portion of a contribution to another arrangement that was an eligible funeral arrangement, other than any such contribution made by way of a transfer from any eligible funeral arrangement, as can reasonably be considered to have subsequently been used to make a contribution under the particular arrangement by way of a transfer from an eligible funeral arrangement for the purpose of funding funeral or cemetery services with respect to the individual.

Separate arrangement.

For the purposes of the definition of “eligible funeral arrangement” in the first paragraph, any payment, other than

the portion of the payment that is a contribution to a cemetery care trust, that is made in consideration for the immediate acquisition of a right to burial in or on property that is set apart or used as a place for the burial of human remains or of any interest in a building or structure for the permanent placement of human remains, shall be considered to have been made pursuant to a separate arrangement that is not an eligible funeral arrangement.

Funeral or cemetery services.

Where, in any of the provisions of this Title, a reference to “funeral or cemetery services” is made, that reference includes a reference to a combination of such services.

History: 1996, c. 39, s. 248; 2000, c. 5, s. 226.

Corresponding Federal Provision: 148.1(1).

Exemption for eligible funeral arrangements.

979.20. Notwithstanding any other provision of this Part,

(a) no amount that has accrued, is added or is credited to an eligible funeral arrangement shall be included in computing the income of any person solely because of such accrual, adding or crediting;

(b) subject to the second paragraph and section 979.21, no amount shall be

i. included in computing a person’s income solely because of the provision by another person of funeral or cemetery services under an eligible funeral arrangement, or

ii. included in computing a person’s income because of the disposition of an interest under an eligible funeral arrangement or an interest in a trust governed by an eligible funeral arrangement.

Provision not applicable.

Subparagraph ii of subparagraph *b* of the first paragraph shall not affect the consequences under this Part of the disposition of any right under an eligible funeral arrangement to payment for the provision of funeral or cemetery services.

History: 1996, c. 39, s. 248; 2000, c. 5, s. 227.

Corresponding Federal Provision: 148.1(2).

Income inclusion on return of funds.

979.21. Where at any particular time in a taxation year a particular amount is distributed, otherwise than as payment for the provision of funeral or cemetery services with respect to an individual, to a taxpayer from an arrangement that was, at the time it was established, an eligible funeral arrangement and the particular amount is paid from the balance in respect of the individual under the arrangement, there shall be added in computing the taxpayer’s income for the year from

property the lesser of the particular amount and the amount determined by the formula

$$A + B - (C - D).$$

Interpretation.

For the purposes of the formula in the first paragraph,

(a) A is the balance in respect of the individual under the arrangement immediately before the particular time, determined without regard to the value of property in a cemetery care trust;

(b) B is the aggregate of all payments made from the arrangement before the particular time for the provision of funeral or cemetery services with respect to the individual, other than cemetery services funded by property in a cemetery care trust;

(c) C is the aggregate of all relevant contributions made before the particular time in respect of the individual under the arrangement, other than contributions in respect of the individual that were in a cemetery care trust; and

(d) D is the aggregate of all amounts each of which is equal to the amount by which an amount relating to the balance in respect of the individual under the arrangement that is deemed under section 979.22 to have been distributed before the particular time from the arrangement exceeds the portion of that amount that is included, because of that section, in computing a taxpayer's income.

History: 1996, c. 39, s. 248; 2000, c. 5, s. 228; 2009, c. 5, s. 395.

Corresponding Federal Provision: 148.1(3).

Deemed distribution on transfer.

979.22. If, at a particular time, an amount relating to the balance in respect of an individual (in this section and in section 979.23 referred to as the “transferor”) under an eligible funeral arrangement (in this section and in section 979.23 referred to as the “transferor arrangement”) is transferred, credited or added to the balance in respect of the same or another individual (in this section and in section 979.23 referred to as the “recipient”) under the same or another eligible funeral arrangement (in this section and in section 979.23 referred to as the “recipient arrangement”), the following rules apply:

(a) the amount is deemed to have been distributed at the particular time to the transferor or, if the transferor is deceased at that time, to the recipient from the transferor arrangement and to have been paid from the balance in respect of the transferor under the transferor arrangement; and

(b) the amount is deemed to be a contribution made, other than by way of a transfer from an eligible funeral arrangement, at the particular time under the recipient

arrangement for the purpose of funding funeral or cemetery services with respect to the recipient.

History: 2009, c. 5, s. 396.

Corresponding Federal Provision: 148.1(4).

Exception.

979.23. Section 979.22 does not apply if

(a) the transferor and the recipient are the same individual;

(b) the amount that is transferred, credited or added to the balance in respect of the individual under the recipient arrangement is equal to the balance in respect of the individual under the transferor arrangement immediately before the particular time; and

(c) the transferor arrangement is terminated immediately after the transfer.

History: 2009, c. 5, s. 396.

Corresponding Federal Provision: 148.1(5).

**TITLE X
TAX-FREE RESERVE OF A QUALIFIED
SHIPOWNER**

**CHAPTER I
DEFINITIONS**

Definitions:

979.24. In this Title,

“eligible addition”;

“eligible addition” to a tax-free reserve of a qualified shipowner means qualified property that is allocated by the shipowner to the reserve and does not include an interest or dividend amount attributable to such qualified property or to a capital gain from the disposition of such property;

“eligible withdrawal”;

“eligible withdrawal” from a tax-free reserve of a qualified shipowner means an amount withdrawn by the shipowner from the reserve

(a) to pay the cost of work to maintain or renovate the shipowner's qualified vessel fleet, or the cost of qualified vessel shipbuilding work awarded by the shipowner to the operator of a qualified shipyard; or

(b) to meet the consequences of exceptional and unpredictable events, including financial difficulties likely to jeopardize continuation of the shipowner's activities, to the extent the amount is reasonable in the circumstances;

“excluded property”;

“excluded property” of a qualified shipowner means

(a) depreciable property;

(b) property, other than depreciable property, used by the qualified shipowner in the course of carrying on its business; and

(c) a debt obligation, a bond, a debenture, a share of the capital stock of a corporation or another similar obligation issued by a person with whom the qualified shipowner is not dealing at arm's length;

“qualification certificate”;

“qualification certificate” means a certificate issued under section 11.3 of Schedule C to the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1);

“qualified property”;

“qualified property” of a qualified shipowner means property other than excluded property;

“qualified shipyard”;

“qualified shipyard” means a shipyard operated in Québec by a corporation and that meets the conditions set out in paragraphs 1 to 3 and 5 of section 9.4 of Schedule C to the Act respecting the sectoral parameters of certain fiscal measures;

“qualified shipowner”;

“qualified shipowner” means a shipowner that is a corporation carrying on a business in Québec and having an establishment in Québec;

“qualified vessel”.

“qualified vessel” of a taxpayer means a scow or a vessel described in section 130R165 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) or in paragraph c of class 7 of Schedule B to that Regulation.

History: 2015, c. 21, s. 353.

CHAPTER II GENERAL RULES

Tax-free reserve.

979.25. All the qualified property of a qualified shipowner within a reserve created by the shipowner with a view to accumulating the capital necessary to have work carried out by the operator of a qualified shipyard so as to maintain or renovate qualified vessels in the shipowner's fleet or to have a qualified vessel built constitutes a tax-free reserve of the shipowner.

History: 2015, c. 21, s. 353.

Certificate required.

979.26. A tax-free reserve of a qualified shipowner may be created only after the shipowner has obtained a qualification certificate.

History: 2015, c. 21, s. 353.

Notice to the Minister.

979.27. A tax-free reserve of a qualified shipowner begins on the day on which, for the first time, the shipowner sends the notice required by section 979.28 to the Minister.

Filing of certificate.

A qualified shipowner must file a copy of the qualification certificate with the fiscal return the shipowner is required to file under section 1000 for the taxation year in which a tax-free reserve was created by the shipowner.

History: 2015, c. 21, s. 353.

Eligible addition.

979.28. Qualified property is considered to be an eligible addition to the tax-free reserve of a qualified shipowner as of the day on which the shipowner informs the Minister, in the prescribed form containing prescribed information, that the property has been allocated to the shipowner's tax-free reserve.

History: 2015, c. 21, s. 353.

First eligible addition.

979.29. The first eligible addition to a tax-free reserve of a qualified shipowner must be made on or before 31 December 2023.

Exception.

Despite the first paragraph, a shipowner who obtains a qualification certificate from the Minister of the Economy, Innovation and Exports after 31 December 2023 may make an initial eligible addition to the tax-free reserve after that date within a reasonable time following the date on which the qualification certificate is issued.

History: 2015, c. 21, s. 353.

Income to be retained in the tax-free reserve.

979.30. The amount that consists of the interest and dividends attributable to qualified property within the tax-free reserve of a qualified shipowner, and the amount by which the proceeds received by the shipowner from the disposition of such property exceed the expenses incurred by the shipowner to dispose of the property, must be retained in the tax-free reserve, except the part of the amount or excess amount that is withdrawn as an eligible withdrawal or is used to pay tax or settle an obligation of the same nature required to be paid or settled in relation to the amount or excess amount under a law of a jurisdiction other than Québec or a regulation made under such a law.

History: 2015, c. 21, s. 353.

End of tax-free reserve.

979.31. A tax-free reserve of a qualified shipowner ends at the latest on 31 December 2033.

History: 2015, c. 21, s. 353.

Deemed end.

979.32. A tax-free reserve of a qualified shipowner is deemed to end on the first day of the taxation year

(a) for which the shipowner fails to file the documents required under section 979.37; or

(b) in which the shipowner makes a withdrawal other than an eligible withdrawal.

History: 2015, c. 21, s. 353.

Abusive tax arrangement.

979.33. A tax-free reserve of a qualified shipowner is deemed never to have existed if it is reasonable to consider that the ultimate purpose sought by the qualified shipowner in creating the tax-free reserve was to obtain a tax benefit and not to have work carried out by the operator of a qualified shipyard in such a shipyard to maintain or renovate the shipowner's fleet of qualified vessels or to have such a shipyard build qualified vessels.

History: 2015, c. 21, s. 353.

Assessments.

979.34. Despite sections 1010 to 1011, the Minister shall make any assessments, reassessments or additional assessments of tax, interest and penalties and any determinations and redeterminations as are necessary for a taxation year to take into account the application of section 979.33.

History: 2015, c. 21, s. 353.

CHAPTER III ADMINISTRATION

Separate accounting.

979.35. A qualified shipowner is required for a taxation year to keep separate accounting for the tax-free reserve that must state

(a) the total value of the qualified property within the reserve at the beginning of the year or, if later, on the day on which the reserve was created;

(b) all eligible additions to the reserve made in the year and all eligible withdrawals from the reserve made in the year;

(c) the interest and dividend income received in the year that is attributable to qualified property within the reserve;

(d) in relation to the disposition in the year of qualified property within the reserve, the amount by which the proceeds of disposition of the property exceeds the expenditures made for the purpose of making the disposition; and

(e) the total value of the qualified property in the reserve at the end of the year.

History: 2015, c. 21, s. 353.

Amount in tax-free reserve to be reported yearly.

979.36. For each taxation year, a qualified shipowner must specify, in the prescribed form containing prescribed information, the amount of dividends and interest attributable to qualified property within its tax-free reserve and the amount of any gain realized or loss sustained from the disposition of qualified property within the tax-free reserve.

History: 2015, c. 21, s. 353.

Filing requirements.

979.37. A qualified shipowner must file, along with the fiscal return the shipowner is required to file under section 1000 for a taxation year in which it has a tax-free reserve, documents showing the separate accounting for the reserve as well as the form prescribed for the purposes of section 979.36.

History: 2015, c. 21, s. 353.

CHAPTER IV DEDUCTION

Amount deductible.

979.38. An amount may be deducted in computing a qualified shipowner's taxable income for a taxation year that is equal to the part of the amount included in computing that income for the year as interest and dividends attributable to qualified property within the shipowner's tax-free reserve, if the amount is not otherwise deductible in computing the shipowner's taxable income for the year.

History: 2015, c. 21, s. 353.

CHAPTER V CAPITAL GAINS AND CAPITAL LOSSES

Taxable capital gains and allowable capital losses.

979.39. For the purpose of computing a qualified shipowner's income for a taxation year, the following rules apply:

(a) the amount of any taxable capital gain for the year from the disposition of qualified property within the shipowner's tax-free reserve is deemed to be nil; and

(b) the amount of any allowable capital loss for the year from the disposition of qualified property within the shipowner's tax-free reserve is deemed to be nil.

History: 2015, c. 21, s. 353.

Allowable capital losses.

979.40. A qualified shipowner's allowable capital loss from the disposition of particular qualified property not within its tax-free reserve immediately before the disposition time is deemed to be nil if, in the period that includes the 90 days following that time, the particular qualified property or property identical to it is allocated to the qualified shipowner's tax-free reserve as a result of an eligible addition to the reserve.

Deemed identical property.

For the purposes of the first paragraph, the right to acquire qualified property is deemed to be property identical to the qualified property, other than a right, as security only, derived from a hypothec, mortgage, agreement of sale or similar obligation.

History: 2015, c. 21, s. 353.

BOOK VIII EXEMPTIONS AND QUALIFIED DONEES

TITLE I EXEMPTION FROM TAX

CHAPTER I RULES OF APPLICATION

Persons exempt from tax.

980. No tax is payable under this Part on the taxable income of a person for a period during which he complies with the conditions required in this Title to be exempt from tax.

History: 1972, c. 23, s. 712.

Interpretation Bulletins: IMP. 996-2; IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1) before (a).

Exemption from tax for part of a year.

981. If the period contemplated in section 980 is only part of a taxation year, this Title only applies to the proportion of the taxable income for the year that the number of days in that period is of the total number of days in that year.

History: 1972, c. 23, s. 713.

Interpretation Bulletins: IMP. 996-3/R1; IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(6).

CHAPTER II FOREIGN OFFICERS

Foreign officers exempt from tax.

982. An officer or servant of the government of a country other than Canada is exempt from tax if his duties require him to reside in Canada, if he resided outside Canada immediately before he assumed his duties and if such

country grants a similar privilege to an officer or servant of the same class from Canada or Québec.

Restrictions.

However, such exemption does not apply if the individual is a Canadian citizen or is engaged in a business or performing the duties of an office or employment in Canada other than the individual's position with the foreign government.

History: 1972, c. 23, s. 714; 1997, c. 14, s. 172.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(a).

Members of foreign officer's family.

983. The exemption provided in section 982 also applies to a member of the family of the individual contemplated in the said section who resides with such individual and to his employee,

(a) if the foreign country grants a similar privilege to the members of the family and employees of the same class of officers or servants of Canada or Québec;

(b) if the member of such family was not, at a particular time, lawfully admitted to Canada for permanent residence or is not engaged in a business, or performing the duties of an office or employment there;

(c) if such employee resided outside Canada before assuming his duties as an employee of such individual and has at no time since then been engaged in a business or employed in Canada otherwise than by an individual contemplated in section 982; and

(d) if the member of that family or the employee is not a Canadian citizen.

History: 1972, c. 23, s. 715.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(b).

CHAPTER III PUBLIC BODIES

Municipalities and public bodies.

984. Any municipality or municipal or public body performing a function of government in Canada is exempt from tax.

History: 1972, c. 23, s. 716; 2009, c. 5, s. 397.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(c).

Corporations, commissions or associations owned by the State or Her Majesty.

985. A person is exempt from tax for a period when the person is

(a) a corporation, commission or association all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec;

(b) a corporation, commission or association not less than 90% of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec;

(c) a corporation all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is another corporation, a commission or an association to which this subparagraph or subparagraph *a* applies for the period;

(d) a corporation, commission or association not less than 90% of the capital, property or shares, other than directors' qualifying shares, of which is owned by

i. one or more persons each of which is the State, Her Majesty in right of Canada, Her Majesty in right of a province, other than Québec, or a person to which subparagraph *a* or *c* applies for the period, or

ii. one or more municipalities in Canada in combination with one or more persons referred to in subparagraph i;

(e) a corporation all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is another corporation, a commission or an association to which this subparagraph or any of subparagraphs *a* to *d* applies for the period;

(f) subject to sections 985.0.1 and 985.0.2, a corporation, commission or association not less than 90% of whose capital is owned by one or more entities each of which is a municipality in Canada or a municipal or public body performing a function of government in Canada, and not more than 10% of whose income for the period is derived from activities carried on outside the geographical boundaries of the territories of those entities; or

(g) subject to sections 985.0.1 and 985.0.2, a corporation all of the capital, property or shares (other than directors' qualifying shares) of which is owned by one or more entities (in this subparagraph referred to as "qualifying owners") each of which is, for the period, another corporation, a commission or an association to which subparagraph *f* applies, a corporation to which this subparagraph applies, a municipality in Canada, or a municipal or public body performing a function of government in Canada, where not more than 10% of the corporation's income for the period is from activities carried on outside

i. if subparagraph *f* applies to a qualifying owner, the geographical boundaries of the territory of the municipality

or municipal or public body referred to in subparagraph *f* where it applies to each such qualifying owner,

ii. if this subparagraph applies to a qualifying owner, the geographical boundaries of the territory of a municipality or municipal or public body referred to in subparagraph iii or subparagraph *f*, as the case may be, where it applies to each such qualifying owner, and

iii. if a qualifying owner is a municipality in Canada, or a municipal or public body performing a function of government in Canada, the geographical boundaries of the territory of the municipality or municipal or public body.

Restriction.

Where at a particular time a corporation, commission or association, in this paragraph referred to as the "entity", would, but for this paragraph, be described in any of subparagraphs *a* to *g* of the first paragraph, the entity is deemed not to be, at the particular time, a person described in that subparagraph if

(a) one or more persons, other than the State, Her Majesty in right of Canada, Her Majesty in right of a province, other than Québec, a municipality in Canada or a person which, at the particular time, is a person described in any of subparagraphs *a* to *g* of the first paragraph, have at the particular time a right to the capital, property or shares of that entity, or a right to acquire them; and

(b) the exercise of the rights referred to in subparagraph *a* would result in the entity not being a person described in any of subparagraphs *a* to *g* of the first paragraph at the particular time.

History: 1972, c. 23, s. 717; 1980, c. 13, s. 100; 1997, c. 3, s. 71; 1998, c. 16, s. 251; 2000, c. 5, s. 229; 2001, c. 7, s. 136; 2004, c. 8, s. 173; 2009, c. 5, s. 398 [amended by 2015, c. 36, s. 225]; 2015, c. 36, s. 65.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(d) to (d.6) and (1.1).

Election.

985.0.0.1. Section 985 does not apply in respect of a person's taxable income for a particular taxation year that begins after 31 December 1998 where

(a) subparagraph *a* of the first paragraph of section 985 does not apply in respect of the person's taxable income for the person's last taxation year that began before 1 January 1999;

(b) any of subparagraphs *c*, *d* and *e* of the first paragraph of section 985 would, but for this section, have applied in respect of the person's taxable income for the person's last taxation year that began after 31 December 1998;

(c) there has been no change in the direct or indirect control of the person during the period that began at the beginning of the person's first taxation year that began after 31 December 1998 and ends at the end of the particular year;

(d) the person elects in writing before 1 January 2002 to have this section apply; and

(e) the person has not notified the Minister in writing before the beginning of the particular year that the election has been revoked.

History: 2004, c. 8, s. 174.

Corresponding Federal Provision: 149(1.11).

Deemed election.

985.0.0.2. If there is an amalgamation (within the meaning assigned by subsections 1 and 2 of section 544) of a particular corporation and one or more other corporations, each of which is a subsidiary wholly-owned corporation of the particular corporation, and immediately before the amalgamation, the particular corporation is a person to which section 985 does not apply because of section 985.0.0.1, the new corporation is deemed, for the purposes of section 985.0.0.1, to be the same corporation as the particular corporation.

History: 2015, c. 36, s. 66.

Corresponding Federal Provision: 149(1.12).

Income test.

985.0.1. For the purposes of subparagraphs *f* and *g* of the first paragraph of section 985, income of a corporation, commission or association from activities carried on outside the geographical boundaries of the territory of a municipality or of a municipal or public body does not include income from an activity carried on by

(a) the corporation, commission or association, as the case may be, within the geographical boundaries of Canada under an agreement in writing entered into with Her Majesty in right of Canada or a corporation controlled by Her Majesty in right of Canada and to which any of subparagraphs *a* to *g* of the first paragraph of section 985 applies;

(b) the corporation, commission or association, as the case may be, within the geographical boundaries of a province under an agreement in writing entered into with the State or Her Majesty in right of that province, other than Québec, or a corporation controlled by the State or Her Majesty in right of that province, other than Québec, and to which any of subparagraphs *a* to *g* of the first paragraph of section 985 applies;

(c) the corporation, commission or association, as the case may be, within the geographical boundaries of the territory of a municipality in Canada under an agreement in writing entered into with that municipality or a corporation controlled by that municipality and to which any of

subparagraphs *a* to *g* of the first paragraph of section 985 applies;

(c.1) the corporation, commission or association, as the case may be, within the geographical boundaries described in section 985.0.3 of a municipal or public body performing a function of government in Canada under an agreement in writing entered into with the body or with a corporation controlled by the body and to which any of subparagraphs *a* to *g* of the first paragraph of section 985 applies; or

(d) the corporation, commission or association, as the case may be, in a province as a producer of electrical energy or natural gas or as a distributor of electrical energy, heat, natural gas or water, where the activity is regulated under the laws of the province.

History: 2000, c. 5, s. 230; 2001, c. 7, s. 137; 2004, c. 8, s. 175; 2009, c. 5, s. 399 [amended by 2015, c. 36, s. 226].

Corresponding Federal Provision: 149(1.2).

Votes or control in fact.

985.0.2. Subparagraphs *a* to *g* of the first paragraph of section 985 do not apply in respect of a person's taxable income for a period in a taxation year if at any time during the period

(a) the person is a corporation the shares of the capital stock of which are owned by one or more other persons that, in total, give them more than 10% of the votes that could be cast at a meeting of shareholders of the corporation, other than shares that are owned by one or more persons each of which is

i. the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec,

ii. a municipality in Canada,

iii. a municipal or public body performing a function of government in Canada, or

iv. a corporation, a commission or an association, to which any of those subparagraphs *a* to *g* apply; or

(b) the person is, or would be if the person were a corporation, controlled, directly or indirectly in any manner whatever, by a person, or by a group of persons that includes a person, who is not

i. the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec,

ii. a municipality in Canada,

iii. a municipal or public body performing a function of government in Canada, or

iv. a corporation, a commission or an association, to which any of those subparagraphs *a* to *g* apply.

History: 2000, c. 5, s. 230; 2009, c. 5, s. 400 [amended by 2015, c. 36, s. 227].

Corresponding Federal Provision: 149(1.3).

Geographical boundaries.

985.0.3. For the purposes of this Book, the geographical boundaries of a municipal or public body performing a function of government in Canada are

(a) the geographical boundaries that encompass the area in respect of which a law of Canada or an agreement given effect by a law of Canada recognizes or grants to the body a power to impose taxes; or

(b) if paragraph *a* does not apply, the geographical boundaries within which that body is authorized by the laws of Canada or of a province to exercise that function.

History: 2009, c. 5, s. 401.

Corresponding Federal Provision: 149(11).

CHAPTER III.1 CHARITIES

DIVISION I DEFINITIONS AND GENERALITIES

Definitions:

985.1. In this chapter,

“taxation year”;

(a) “taxation year” means, in the case of a registered charity, a fiscal period;

(a.0.1) *(paragraph repealed)*;

(a.0.2) *(paragraph repealed)*;

“disbursement quota”;

(a.1) “disbursement quota” for a taxation year of a registered charity means the amount determined for the year in respect of the charity under sections 985.9 to 985.9.4;

(a.2) *(paragraph repealed)*;

(b) *(paragraph repealed)*;

“designated gift”;

(b.1) “designated gift” means that portion of a gift of property made in a taxation year by a particular registered charity, to another registered charity with which it does not deal at arm’s length, that is designated by the particular registered charity in the return that it is required to file with the Minister for the year in accordance with the first paragraph of section 985.22;

“related business”;

(c) “related business” in relation to a charity includes a business that is unrelated to the purposes of the charity if substantially all of the persons employed by the charity in the carrying on of that business are not remunerated for such employment;

“charitable foundation”;

(d) “charitable foundation” means a corporation or trust, other than a charitable organization, constituted and operated exclusively for charitable purposes, including the payment of funds to a qualified donee, except insofar as such payment is a gift the making of which is a political activity, if no part of the income of such corporation or trust is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor of the corporation or trust;

“private foundation”;

(e) “private foundation” means a charitable foundation that is not a public foundation;

“public foundation”;

(f) “public foundation” means a charitable foundation described in section 985.1.1;

“relevant criminal offence”;

(f.1) “relevant criminal offence” means a criminal offence under an Act of Canada, or an offence that would be a criminal offence if it were committed in Canada, and that

i. relates to financial dishonesty, including tax evasion, theft and fraud, or

ii. in respect of a charity, a Canadian amateur athletic association, within the meaning of section 985.23.2, or a Québec amateur athletic association, within the meaning of section 985.23.3, is relevant to the operation of the charity or association;

“relevant offence”;

(f.2) “relevant offence” means an offence, other than a relevant criminal offence, under an Act of Québec, of another province or of Canada, or an offence that would be such an offence if it were committed in Canada, or that

i. relates to financial dishonesty, including an offence under charitable fundraising legislation, consumer protection legislation or securities legislation, or

ii. in respect of a charity, a Canadian amateur athletic association, within the meaning of section 985.23.2, or a Québec amateur athletic association, within the meaning of section 985.23.3, is relevant to the operation of the charity or association;

“charitable organization”;

(g) “charitable organization” means an organization described in section 985.1.2;

“ineligible individual”;

(h) “ineligible individual”, at a particular time, means an individual who has been

i. convicted of a relevant criminal offence unless it is a conviction for which either a pardon has been granted and has neither been revoked nor ceased to have effect, or a record suspension has been ordered under the Criminal Records Act (Revised Statutes of Canada, 1985, chapter C-47) or a pardon has been granted or issued under that Act and that record suspension or pardon has neither been revoked nor ceased to have effect,

ii. convicted of a relevant offence in the five-year period preceding the particular time,

iii. a director, trustee, officer or like official of a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act or the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and for which its registration was revoked in the five-year period preceding the particular time,

iv. an individual who controlled or managed, directly or indirectly, in any manner whatever, a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act or the Income Tax Act and for which its registration was revoked in the five-year period preceding the particular time, or

v. a promoter in respect of a tax shelter that involved a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association, the registration of which was revoked under this Act or the Income Tax Act in the five-year period preceding the particular time for reasons that included or were related to participation in the tax shelter;

“promoter”.

(i) “promoter” has the meaning assigned by section 1079.1.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 154; 1993, c. 64, s. 122; 1995, c. 1, s. 107; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 1999, c. 83, s. 158; 2005, c. 38, s. 215; 2009, c. 5, s. 402; 2009, c. 15, s. 177; 2011, c. 34, s. 45; 2012, c. 8, s. 160; 2013, c. 10, s. 81.

Interpretation Bulletins: IMP. 996-2.

Corresponding Federal Provision: 149.1(1).

985.1.0.1. (Repealed).

History: 2005, c. 38, s. 216; 2006, c. 13, s. 82; 2011, c. 34, s. 46.

985.1.0.2. (Repealed).

History: 2005, c. 38, s. 216; 2006, c. 13, s. 83; 2009, c. 15, s. 178; 2011, c. 34, s. 46.

Public foundation.

985.1.1. The charitable foundation to which paragraph *f* of section 985.1 refers means a charitable foundation that, at a particular time, meets the following conditions:

(a) more than 50% of its directors, trustees, officers or like officials deal at arm’s length with each other and with

i. each of the other directors, trustees, officers and like officials of the foundation,

ii. each person described in subparagraph i or ii of paragraph *b*, and

iii. each member of a group of persons, other than the State, Her Majesty in right of Canada or Her Majesty in right of a province (other than Québec), a municipality, another registered charity that is not a private foundation, and any club, society or association described in section 996, who do not deal with each other at arm’s length, if the group would, if it were a person, be a person described in subparagraph i of paragraph *b*; and

(b) the charitable foundation is not, at the particular time, and would not at the particular time be, if the foundation were a corporation, controlled, directly or indirectly in any manner whatever,

i. by a person, other than the State, Her Majesty in right of Canada or Her Majesty in right of a province (other than Québec), a municipality, another registered charity that is not a private foundation, and any club, society or association described in section 996

(1) who immediately after the particular time, has contributed to the foundation amounts that are, in total, greater than 50% of the capital of the foundation immediately after the particular time, and

(2) who immediately after the person’s last contribution at or before the particular time, had contributed to the foundation amounts that were, in total, greater than 50% of the capital of the foundation immediately after the making of that last contribution, or

ii. by a person, or by a group of persons that do not deal at arm’s length with each other, if the person or any member of the group does not deal at arm’s length with a person described in subparagraph i.

History: 1986, c. 15, s. 155; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1997, c. 3, s. 48; 1998, c. 16, s. 216; 2000, c. 5, s. 293; 2001, c. 7, s. 169; 2009, c. 5, s. 403.

Corresponding Federal Provision: 149.1(1) “public foundation”.

Charitable organization.

985.1.2. The organization to which paragraph *g* of section 985.1 refers is an organization, whether or not incorporated, that, at a particular time, meets the following conditions:

(a) all its resources are devoted to charitable activities carried on by the organization itself;

(b) no part of its income is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor of the organization;

(c) more than 50% of its directors, trustees, officers or like officials deal at arm's length with each other and with

i. each of the other directors, trustees, officers and like officials of the organization,

ii. each person described in subparagraph i or ii of paragraph *d*, and

iii. each member of a group of persons, other than the State, Her Majesty in right of Canada or Her Majesty in right of a province (other than Québec), a municipality, another registered charity that is not a private foundation, and any club, society or association described in section 996, who do not deal with each other at arm's length, if the group would, if it were a person, be a person described in subparagraph i of paragraph *d*; and

(d) the organization is not, at the particular time, and would not at the particular time be, if the organization were a corporation, controlled, directly or indirectly in any manner whatever,

i. by a person, other than the State, Her Majesty in right of Canada or Her Majesty in right of a province (other than Québec), a municipality, another registered charity that is not a private foundation, and any club, society or association described in section 996,

(1) who immediately after the particular time, has contributed to the organization amounts that are, in total, greater than 50% of the capital of the organization immediately after the particular time, and

(2) who immediately after the person's last contribution at or before the particular time, had contributed to the organization amounts that were, in total, greater than 50% of the capital of the organization immediately after the making of that last contribution, or

ii. by a person, or by a group of persons that do not deal at arm's length with each other, if the person or any member of

the group does not deal at arm's length with a person described in subparagraph i.

History: 1986, c. 15, s. 155; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1997, c. 3, s. 49; 2000, c. 5, s. 293; 2009, c. 5, s. 403.

Corresponding Federal Provision: 149.1(1) "charitable organization".

Where a charitable organization is considered to be devoting its resources to charitable activities.

985.2. A charitable organization is considered to be devoting its resources to charitable activities carried on by it to the extent that

(a) it carries on a related business;

(b) it disburses part of its income to qualified donees, other than income disbursed by way of a gift the making of which is a political activity, if the total amount of the charitable organization's income that is disbursed to qualified donees in a taxation year does not exceed 50% of its income for the year;

(c) it disburses part of its income to a registered charity that is deemed to be a charity associated with it under section 985.3, other than income disbursed by way of a gift the making of which is a political activity; or

(d) it pays to a qualified donee an amount that is not paid out of the income of the charitable organization, other than an amount paid as a gift the making of which is a political activity.

History: 1978, c. 26, s. 192; 1995, c. 49, s. 236; 1997, c. 14, s. 173; 2009, c. 5, s. 404; 2012, c. 8, s. 161; 2013, c. 10, s. 82.

Corresponding Federal Provision: 149.1(6) and (10).

Designated gift and expenditure on political activity.

985.2.1. For the purposes of paragraph *b* of sections 985.6 to 985.8 and section 985.21, the following are deemed to be neither an amount expended in a taxation year on charitable activities nor a gift made to a qualified donee:

(a) a designated gift; and

(b) an expenditure on political activities made by a charitable organization or a charitable foundation.

History: 1986, c. 15, s. 156; 1987, c. 67, s. 177; 1995, c. 49, s. 236; 2011, c. 34, s. 47.

Corresponding Federal Provision: 149.1(1.1).

Amount specified by the Minister.

985.2.2. The Minister may, on application made to the Minister in prescribed form by a registered charity, specify an amount in respect of the charity for a taxation year and, for the purposes of paragraph *b* of each of sections 985.6 to

985.8, that amount is deemed to be an amount expended by the charity in the year on charitable activities carried on by it.

History: 1986, c. 15, s. 156; 1995, c. 49, s. 236; 2001, c. 53, s. 212.

Corresponding Federal Provision: 149.1(5).

Charitable purposes and political activities.

985.2.3. For the purposes of paragraph *d* of section 985.1, where a corporation or trust devotes substantially all of its resources to charitable purposes and part of its resources to political activities, it shall be considered to be constituted and operated for charitable purposes in respect of that part of its resources so devoted to political activities if

(a) such political activities are ancillary and incidental to its charitable purposes; and

(b) such political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office.

History: 1987, c. 67, s. 178; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 2009, c. 5, s. 405.

Corresponding Federal Provision: 149.1(6.1).

Charitable and political activities.

985.2.4. For the purposes of paragraph *g* of section 985.1, where an organization devotes substantially all of its resources to charitable activities carried on by it and part of its resources to political activities, it is deemed to be devoting that part of its resources to charitable activities carried on by it if

(a) such political activities are ancillary and incidental to its charitable activities, and

(b) such political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office.

History: 1987, c. 67, s. 178; 1995, c. 49, s. 236.

Corresponding Federal Provision: 149.1(6.2).

Political activity.

985.2.5. For the purposes of paragraph *d* of section 985.1 and sections 985.2, 985.2.1, 985.2.3 and 985.2.4, a political activity includes the making of a gift to a qualified donee if it can reasonably be considered that a purpose of the gift is to support the political activities of the qualified donee.

History: 2013, c. 10, s. 83.

Corresponding Federal Provision: 149.1(1) “political activity”.

Designation of associated charities upon application.

985.3. If, following an application made to the Minister of National Revenue in accordance with subsection 7 of section 149.1 of the Income Tax Act (Revised Statutes of

Canada, 1985, chapter 1, 5th Supplement), the Minister of National Revenue designates in writing, after 19 December 2006, a registered charity as a charity associated with one or more particular registered charities, the charities to which the designation applies are deemed to be associated charities from the date specified in the designation, until such time as the designation is revoked by the Minister of National Revenue.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an application granted by the Minister of National Revenue or a revocation made under subsection 7 of section 149.1 of the Income Tax Act or in relation to an application granted by the Minister before 20 December 2006 or a revocation made under this section before that date, and, to that end, sections 21.4.6 and 21.4.7 must apply, with the necessary modifications, as if a revocation made by the Minister of National Revenue had been made by the registered charities to which that revocation applies.

History: 1978, c. 26, s. 192; 1995, c. 49, s. 236; 2001, c. 53, s. 213; 2009, c. 5, s. 406.

Corresponding Federal Provision: 149.1(7).

Designation of public foundations upon application.

985.4. On application made to him by a private foundation, the Minister may, on such terms and conditions as he determines, designate the foundation to be a public foundation, and on and after the date specified in such designation, the foundation shall, until such designation is revoked, be deemed to be a public foundation.

History: 1978, c. 26, s. 192.

Corresponding Federal Provision: 149.1(13).

985.4.1. *(Repealed).*

History: 1986, c. 15, s. 157; 1990, c. 59, s. 330.

985.4.2. *(Repealed).*

History: 1986, c. 15, s. 157; 1990, c. 59, s. 330.

Designation as public foundation.

985.4.3. The Minister may, by notice sent by registered mail to a registered charity, on his own initiative or on application made to him in prescribed form, designate the charity to be a charitable organization, private foundation or public foundation.

History: 1986, c. 15, s. 157; 1990, c. 59, s. 331; 1995, c. 49, s. 236; 1999, c. 83, s. 159.

Corresponding Federal Provision: 149.1(6.3).

DIVISION II REGISTRATION

Registration upon application.

985.5. (1) On application made to the Minister in prescribed form, the Minister may approve for registration as a charitable organization, private foundation or public foundation a charitable foundation, private foundation or public foundation, as the case may be, that is resident in Canada and was either created or established in Canada.

Registered charity.

(2) The following are deemed to be a registered charity:

(a) an organization, other than a charity referred to in paragraph *b*, that, on 31 December 1976, was a Canadian charitable organization prescribed within the meaning of the regulations made under section 710, as they read in their application to the taxation year 1976, and whose registration has not been revoked by the Minister;

(b) a charity registered as a charitable organization, private foundation or public foundation, as the case may be, that is a charitable organization, private foundation or public foundation in conformity with the standards prescribed for such purpose.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 158; 1990, c. 59, s. 332; 1995, c. 49, s. 236; 1997, c. 3, s. 50; 2001, c. 53, s. 214.

Corresponding Federal Provision: 149.1(6.3) and 248 “registered charity”.

985.5.1. (*Repealed*).

History: 1986, c. 15, s. 158; 1990, c. 59, s. 333.

Charity deemed registered.

985.5.2. The charity referred to in section 985.4.3 is deemed to be registered as a charitable organization, private foundation or public foundation, as the case may be, for the taxation years beginning after the day of sending of the notice mentioned in that section until it is otherwise designated under that section, until its registration is revoked under sections 985.6 to 985.8.1 or sections 1063 to 1065.1 or, in the case of a charity that is deemed to be registered in accordance with subsection 2 of section 985.5, until it ceases to be so deemed to be registered.

Provision applicable.

Section 87 of the Tax Administration Act (chapter A-6.002), with the necessary modifications, applies to the notice contemplated in the first paragraph.

History: 1986, c. 15, s. 158; 1995, c. 49, s. 236; 1995, c. 63, s. 261; 2003, c. 2, s. 261; 2009, c. 5, s. 407; 2010, c. 31, s. 175.

DIVISION III REVOCATION OF REGISTRATION

Revocation of the registration of a charitable organization.

985.6. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration of a charitable organization if the organization

(a) carries on a business that is not a related business;

(b) fails to expend in any taxation year, on charitable activities carried on by it or by way of gifts made by it to qualified donees, amounts that are at least equal to the organization’s disbursement quota for the year; or

(c) makes a payment in the form of a gift, other than

i. a gift made in the course of its charitable activities, or

ii. a gift made to a donee that is a qualified donee at the time the gift is made.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 159; 1995, c. 49, s. 222; 2005, c. 38, s. 217 [amended by 2006, c. 13, s. 242]; 2009, c. 5, s. 408.

Corresponding Federal Provision: 149.1(2).

Revocation of the registration of public foundation.

985.7. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration of a public foundation if the foundation

(a) carries on a business that is not a related business;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts that are at least equal to its disbursement quota for that year;

(b.1) makes a payment in the form of a gift, other than

i. a gift made in the course of its charitable activities, or

ii. a gift made to a donee that is a qualified donee at the time the gift is made;

(c) has, since 1 June 1950, acquired control of any corporation; for such purpose, a corporation is controlled by a charitable foundation if more than 50% of its issued share capital having full voting rights under all circumstances belongs to the foundation or both the foundation and persons with whom the foundation does not deal at arm’s length; however, a charitable foundation is deemed not to have acquired control of a corporation if it has not purchased or otherwise acquired for a consideration more than 5% of the issued shares of any class of the capital stock of that corporation;

(d) has, since 1 June 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities; or

(e) at any time within the 24 month period preceding the day on which notice is given to the public foundation by the Minister pursuant to section 1064 and at a time when the public foundation was a private foundation, failed to expend amounts or took any action such that the Minister was entitled, pursuant to section 985.8, to revoke its registration as a private foundation.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 160; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 2009, c. 5, s. 409.

Corresponding Federal Provision: 149.1(2), (3) and (12)(a).

Revocation of registration of private foundation.

985.8. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration of a private foundation in the case provided for in paragraph *d* of section 985.7 or if the foundation

(a) carries on a business;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts that are at least equal to its disbursement quota for that year; or

(c) makes a payment in the form of a gift, other than

i. a gift made in the course of its charitable activities, or

ii. a gift made to a donee that is a qualified donee at the time the gift is made.

Transitional application.

For the purposes of the first paragraph, if, for a taxation year of a private foundation that begins after 18 March 2007, subsection 8 of section 149.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies to the foundation in respect of a class of shares of the capital stock of a corporation, the portion of that paragraph before subparagraph *a* is to be read as if “in paragraph *d*” was replaced by “in paragraph *c* or *d*”.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 161; 1995, c. 49, s. 236; 2009, c. 5, s. 410; 2009, c. 15, s. 179.

Corresponding Federal Provision: 149.1(3)(a) to (c) and (12)(a) after (ii).

Revocation of the registration of a registered charity.

985.8.1. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration

(a) of a registered charity, if it has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the obligation to expend amounts on charitable activities;

(b) of a registered charity, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered charity to which paragraph *a* applies was to assist the other registered charity in avoiding or unduly delaying the obligation to expend amounts on charitable activities;

(c) of a registered charity, if a false statement, within the meaning assigned by the first paragraph of section 1049.0.3, was made in circumstances amounting to culpable conduct, within the meaning assigned by that first paragraph, in the furnishing of information for the purpose of obtaining registration of the charity;

(d) of a registered charity, if it has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm’s length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those two taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to a qualified donee with which it deals at arm’s length;

(e) of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever; and

(f) of a registered charity, if it accepts a gift from a foreign state, within the meaning of section 2 of the State Immunity Act (Revised Statutes of Canada, 1985, chapter S-18), that is set out on the list referred to in subsection 2 of section 6.1 of that Act.

History: 1986, c. 15, s. 161; 1995, c. 49, s. 236; 2005, c. 38, s. 218; 2011, c. 34, s. 48; 2012, c. 8, s. 162; 2017, c. 1, s. 257.

Corresponding Federal Provision: 149.1(4.1).

DIVISION III.0.1

(Repealed).

985.8.2. *(Repealed).*

History: 2005, c. 38, s. 219; 2010, c. 31, s. 175; 2012, c. 8, s. 163.

985.8.3. *(Repealed).*

History: 2005, c. 38, s. 219; 2010, c. 5, s. 130; 2010, c. 31, s. 175; 2012, c. 8, s. 163.

985.8.4. *(Repealed).*

History: 2005, c. 38, s. 219; 2012, c. 8, s. 163.

DIVISION III.0.2 REFUSAL OR ANNULMENT OF REGISTRATION

Refusal to register.

985.8.5. The Minister may refuse to register a person as a registered charity.

Notification by Minister.

The Minister shall so notify the person by registered mail.

History: 2005, c. 38, s. 219.

Corresponding Federal Provision: 149.1(22).

Refusal to register.

985.8.5.1. The Minister may refuse, in the manner described in section 985.8.5, to register a person as a registered charity if

(a) the application for registration is made on the person's behalf by an ineligible individual;

(b) an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever; or

(c) the person has accepted a gift from a foreign state, within the meaning of section 2 of the State Immunity Act (Revised Statutes of Canada, 1985, chapter S-18), that is set out on the list referred to in subsection 2 of section 6.1 of that Act.

History: 2012, c. 8, s. 164; 2017, c. 1, s. 258.

Corresponding Federal Provision: 149.1(25).

Annulment of registration.

985.8.6. The Minister may annul the registration of a person as a registered charity if the registration was granted in error or the person has, solely as a result of a change in law, ceased to be a charity, and the registration is deemed never to have been granted.

Notification by Minister.

The Minister shall so notify the person by registered mail.

History: 2005, c. 38, s. 219.

Corresponding Federal Provision: 149.1(23).

Receipt issued before annulment of registration.

985.8.7. A receipt issued in accordance with the regulations by a person before the annulment of the person's registration under section 985.8.6 or subsection 23 of section 149.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed to be a valid receipt if the receipt would have been valid had the person been a registered charity at the time the receipt was issued.

History: 2005, c. 38, s. 219.

Corresponding Federal Provision: 149.1(24).

DIVISION III.1 DISBURSEMENT QUOTA

Disbursement quota.

985.9. The amount referred to in paragraph *a.1* of section 985.1 for a taxation year in respect of a registered charity is equal to the amount determined by the formula

$$A \times B \times 0.035/365.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the number of days in the taxation year; and

(b) B is

i. the prescribed amount for the year, in respect of all or a portion of a property owned by the charity at any time in the 24 months immediately preceding the year that was not used directly in charitable activities or administration, if that amount is greater than

(1) if the charity is a charitable organization, \$100,000, and

(2) in any other case, \$25,000, and

ii. in any other case, nil.

(c) *(subparagraph repealed)*;

(d) *(subparagraph repealed)*.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 161; 1988, c. 18, s. 109; 1993, c. 64, s. 123; 1995, c. 49, s. 223; 1997, c. 14, s. 290; 2005, c. 38, s. 220; 2006, c. 13, s. 84; 2011, c. 34, s. 49.

Corresponding Federal Provision: 149.1(1) « contingent des versements ».

985.9.1. *(Repealed)*.

History: 1986, c. 15, s. 161; 1995, c. 49, s. 236; 2005, c. 38, s. 221; 2006, c. 13, s. 85; 2011, c. 34, s. 50.

985.9.1.1. *(Repealed)*.

History: 1995, c. 63, s. 110; 1997, c. 3, s. 71; 2005, c. 38, s. 222; 2011, c. 34, s. 50.

985.9.2. *(Repealed)*.

History: 1986, c. 15, s. 161; 1988, c. 18, s. 110; 1992, c. 1, s. 156; 1995, c. 49, s. 224; 2005, c. 38, s. 223.

985.9.3. *(Repealed)*.

History: 1986, c. 15, s. 161; 1992, c. 1, s. 157; 1995, c. 49, s. 236; 2005, c. 38, s. 223.

Powers of Minister.

985.9.4. For the purposes of subparagraph *i* of subparagraph *b* of the second paragraph of section 985.9, the Minister may

(a) authorize a change in the number of periods chosen by a registered charity in determining the prescribed amount; and

(b) accept any method for the determination of the fair market value of property or a portion thereof that may be required in determining the prescribed amount.

History: 1988, c. 18, s. 111; 1995, c. 49, s. 236; 2005, c. 38, s. 224; 2011, c. 34, s. 51.

Corresponding Federal Provision: 149.1(1.2).

985.10. *(Repealed).*

History: 1978, c. 26, s. 192; 1986, c. 15, s. 162.

985.11. *(Repealed).*

History: 1978, c. 26, s. 192; 1986, c. 15, s. 162.

985.12. *(Repealed).*

History: 1978, c. 26, s. 192; 1986, c. 15, s. 162.

DIVISION IV RULES RELATING TO COMPUTATION OF INCOME

985.13. *(Repealed).*

History: 1978, c. 26, s. 192; 1986, c. 15, s. 162.

Gifts not included.

985.14. For the purposes of this chapter, a charity must include, in computing its income for a taxation year, all gifts it has received in the year other than

(a) a designated gift;

(b) any gift made to a religious order or to the body which administers the property of that religious order where the gift is made by a member of that order who has taken vows of perpetual poverty;

(c) any gift or portion of a gift, other than that contemplated in paragraph *b*, made by a donor who is not a charity and in respect of which he has not deducted any amount under paragraph *a* or *c* of section 710 or paragraph *b* or *d* of the second paragraph of section 752.0.10.6, or was not liable for tax under sections 22 to 27 for the taxation year in which the gift was made; or

(d) any gift or portion of a gift made by a donor that is a charity, if such gift was not made out of the income of the donor.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 163; 1993, c. 64, s. 124; 1995, c. 1, s. 108; 1995, c. 49, s. 236; 1999, c. 83, s. 160; 2001, c. 51, s. 83; 2011, c. 34, s. 52.

Corresponding Federal Provision: 110(2) and 149.1(12)(b).

Accumulation of property for a particular purpose.

985.15. A registered charity may, with the approval in writing of the Minister, accumulate property for a particular purpose, on the terms and conditions and over the period of time specified in the approval.

Computing the disbursement quota.

Any property accumulated after receipt of and in accordance with the approval referred to in the first paragraph, including any income related to the accumulated property, is not to be included in computing the prescribed amount in subparagraph *i* of subparagraph *b* of the second paragraph of section 985.9 for the portion of any taxation year in the period, except to the extent that the registered charity is not in compliance with the terms and conditions of the approval.

History: 1978, c. 26, s. 192; 1995, c. 49, s. 225; 2011, c. 34, s. 53.

Corresponding Federal Provision: 149.1(8).

985.16. *(Repealed).*

History: 1978, c. 26, s. 192; 1986, c. 15, s. 164; 1993, c. 64, s. 125; 1995, c. 49, s. 236; 1997, c. 14, s. 290; 2009, c. 5, s. 411; 2011, c. 34, s. 54.

Deductions not allowed.

985.17. For the purposes of this chapter, paragraphs *a* and *b* of section 657 are not applicable in computing the income of a charitable foundation that is a trust.

History: 1978, c. 26, s. 192; 1995, c. 49, s. 236.

Corresponding Federal Provision: 149.1(12)(c).

985.18. *(Repealed).*

History: 1978, c. 26, s. 192; 1982, c. 5, s. 174; 1986, c. 15, s. 165.

DIVISION V RULES OF APPLICATION

985.19. *(Repealed).*

History: 1978, c. 26, s. 192; 1982, c. 5, s. 175.

Use of disbursement excess.

985.20. Where a registered charity has expended a disbursement excess for a taxation year, the charity may, for the purpose of determining whether it has complied with the requirements of paragraph *b* of section 985.6, 985.7 or 985.8, as the case may be, for the immediately preceding taxation

year of the charity and 5 or less of its immediately subsequent taxation years, include in the computation of the amounts expended for charitable activities carried on by it and by way of gifts made by it to qualified donees, such portion of the disbursement excess for that taxation year as was not so included under this section for a previous taxation year.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 166; 1995, c. 49, s. 236.

Corresponding Federal Provision: 149.1(20).

Disbursement excess.

985.21. For the purposes of section 985.20, “disbursement excess” of a charity for a taxation year means the amount by which the aggregate of the amounts expended in the year by the charity on charitable activities carried on by it or by way of gifts made by it to qualified donees exceeds its disbursement quota for the year.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 167; 1995, c. 49, s. 226; 2005, c. 38, s. 225 [amended by 2006, c. 13, s. 243].

Corresponding Federal Provision: 149.1(21).

DIVISION VI INFORMATION RETURNS

Information returns.

985.22. Every registered charity carrying on its activities in Québec shall, within six months from the end of each of its taxation years, file with the Minister an information return for the year, in prescribed form and containing prescribed information, without notice or demand therefor.

Private foundation.

In addition, every private foundation that is a charity carrying on its activities in Québec shall enclose a copy of any document that it is required to file with the Minister of National Revenue for the year under subsection 14 of section 149.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), because of the application of section 149.2 of that Act, with the information return it is required to file with the Minister for a taxation year under the first paragraph.

History: 1978, c. 26, s. 192; 1986, c. 15, s. 168; 1993, c. 16, s. 319; 1995, c. 49, s. 236; 2009, c. 5, s. 412; 2009, c. 15, s. 180.

Corresponding Federal Provision: 149.1(14).

DIVISION VII EXEMPTION FROM TAX

Exemption from tax.

985.23. A registered charity is exempt from tax.

History: 1978, c. 26, s. 192; 1995, c. 49, s. 236.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(f).

CHAPTER III.1.1 REGISTERED AMATEUR ATHLETIC ASSOCIATIONS

Definitions:

985.23.1. In this chapter,

“*Canadian amateur athletic association*”;

“Canadian amateur athletic association” means an association described in section 985.23.2;

“*ineligible individual*”;

“ineligible individual” has the meaning assigned by paragraph *h* of section 985.1;

“*promoter*”;

“promoter” has the meaning assigned by section 1079.1;

“*Québec amateur athletic association*”;

“Québec amateur athletic association” means an association described in section 985.23.3;

“*related business*”;

“related business” of a Canadian amateur athletic association or a Québec amateur athletic association includes a business that is unrelated to the purposes of the association if substantially all persons employed by the association in the carrying on of that business are not remunerated for that employment;

“*taxation year*”.

“taxation year” means a fiscal period.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 149.1(1).

Canadian amateur athletic association.

985.23.2. A Canadian amateur athletic association means an association that

(a) is created under any law in force in Canada;

(b) is resident in Canada;

(c) has no part of its income payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder of the association unless the proprietor, member or shareholder is a club, society or association the primary purpose and primary function of which is the promotion of amateur athletics in Canada; and

(d) has the promotion of amateur athletics in Canada on a nationwide basis as its exclusive purpose and exclusive function and devotes all its resources to that purpose and function.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 149.1(1) “Canadian amateur athletic association”.

Québec amateur athletic association.

985.23.3. A Québec amateur athletic association means an association that

- (a) is created under any law of Québec or Canada;
- (b) has its management and control centre in Québec;
- (c) has no part of its income payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder of the association unless the proprietor, member or shareholder is a club, society or association the primary purpose and primary function of which is the promotion of amateur athletics in Canada; and
- (d) has the promotion of amateur athletics in Québec on a Québec-wide basis as its exclusive purpose and exclusive function and devotes all its resources to that purpose and function.

History: 2012, c. 8, s. 165.

Devoting resources to purpose and function.

985.23.4. A Canadian amateur athletic association or a Québec amateur athletic association is deemed to devote its resources to its exclusive purpose and exclusive function to the extent that

- (a) it carries on a related business; or
- (b) it carries on activities involving the participation of professional athletes, if those activities are ancillary and incidental to its exclusive purpose and exclusive function.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 149.1(6.01).

Political activities.

985.23.5. A Canadian amateur athletic association or a Québec amateur athletic association that devotes part of its resources to political activities is deemed to devote that part of its resources to its exclusive purpose and exclusive function if

- (a) it devotes substantially all its resources to its purpose and function; and
- (b) those political activities are ancillary and incidental to its purpose and function and do not include the direct or indirect support of, or opposition to, any political party or candidate for public office.

Political activity.

For the purposes of the first paragraph, a political activity includes the making of a gift to a qualified donee if it can

reasonably be considered that a purpose of the gift is to support the political activities of the qualified donee.

History: 2012, c. 8, s. 165; 2013, c. 10, s. 84.

Corresponding Federal Provision: 149.1(1) “political activity” and (6.201).

Registration of amateur athletic associations.

985.23.6. The Minister may, on application made to the Minister in the prescribed form, register a Canadian amateur athletic association or a Québec amateur athletic association as such.

Canadian amateur athletic association deemed registered.

Subject to the Minister’s power to refuse or revoke registration, a Canadian amateur athletic association validly registered as such under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed to be also registered as such with the Minister.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 248(1) “Canadian amateur athletic association”.

Information return.

985.23.7. A registered Canadian amateur athletic association or a registered Québec amateur athletic association shall, within six months from the end of each taxation year of the association and without notice or demand, file with the Minister an information return for the year in the prescribed form containing prescribed information.

Clarification – Canadian amateur athletic association.

Despite the first paragraph, a Canadian amateur athletic association that is deemed, under the second paragraph of section 985.23.6, to be registered with the Minister, is only required to file an information return in the prescribed form if the Minister so requests.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 149.1(14).

Tax exemption.

985.23.8. A registered Canadian amateur athletic association or a registered Québec amateur athletic association is exempt from tax.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 149(1)(g).

Revocation of registration.

985.23.9. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration of a Canadian amateur athletic association or a Québec amateur athletic association if

(a) the association carries on a business that is not a related business;

(b) an ineligible individual is a director, trustee, officer or like official of the association, or controls or manages the association, directly or indirectly, in any manner whatever; or

(c) the association accepts a gift from a foreign state, within the meaning of section 2 of the State Immunity Act (Revised Statutes of Canada, 1985, chapter S-18), that is set out on the list referred to in subsection 2 of section 6.1 of that Act.

History: 2012, c. 8, s. 165; 2017, c. 1, s. 259.

Corresponding Federal Provision: 149.1(4.2) and 188.1(4) and (5).

Provisions applicable.

985.23.10. Sections 985.8.5 and 985.8.5.1, and sections 93.1.9.1, 93.1.10.1 and 93.1.17 to 93.1.22 of the Tax Administration Act (chapter A-6.002) apply, with the necessary modifications, in respect of an application for registration as a Canadian amateur athletic association or a Québec amateur athletic association as if it were an application for registration as a charity.

History: 2012, c. 8, s. 165.

Corresponding Federal Provision: 149.1(22) and (25).

CHAPTER III.2

REGISTERED NATIONAL ARTS SERVICE ORGANIZATIONS

Registered national arts service organization.

985.24. Subject to the Minister's power to revoke any registration, every national arts service organization validly registered as such under subsection 6.4 of section 149.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed to be registered also as such with the Minister.

History: 1993, c. 16, s. 320.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149.1(6.4).

Applicable provisions.

985.25. The following provisions apply, with the necessary modifications, to a registered national arts service organization as if it were a charity registered as a charitable organization:

(a) sections 710 to 714, 716.0.2, 716.0.4 to 716.0.11, 752.0.10.1 to 752.0.10.11 and 752.0.10.12 to 752.0.10.26, Divisions I and III to VI of Chapter III.1 and Title VIII of Book IX; and

(b) Division V of Chapter III and sections 93.1.9.1, 93.1.9.2, 93.1.10.1 and 93.1.17 to 93.1.22 of the Tax Administration Act (chapter A-6.002).

History: 1993, c. 16, s. 320; 1993, c. 64, s. 126; 1995, c. 49, s. 236; 1995, c. 63, s. 111; 1997, c. 14, s. 174; 1997, c. 85, s. 229; 1999, c. 83, s. 161; 2005, c. 38, s. 226; 2010, c. 31, s. 175; 2012, c. 8, s. 166.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149.1(6.4) after (d).

Recognized arts organization.

985.26. This chapter does not apply to a recognized arts organization nor to a registered cultural or communications organization.

History: 1993, c. 16, s. 320; 1995, c. 1, s. 199; 1997, c. 14, s. 290; 2006, c. 36, s. 95.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

CHAPTER III.3

(Repealed).

DIVISION I

(Repealed).

985.27. *(Repealed).*

History: 1997, c. 14, s. 175; 1999, c. 83, s. 162; 2003, c. 9, s. 161; 2005, c. 38, s. 227; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

DIVISION II

(Repealed).

985.28. *(Repealed).*

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

985.29. *(Repealed).*

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

985.30. *(Repealed).*

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

985.31. *(Repealed).*

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

DIVISION III (Repealed).

985.32. (Repealed).

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

DIVISION IV (Repealed).

985.33. (Repealed).

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

985.34. (Repealed).

History: 1997, c. 14, s. 175; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

985.35. (Repealed).

History: 1997, c. 14, s. 175; 1997, c. 85, s. 230; 2005, c. 38, s. 228; 2006, c. 36, s. 96 [amended by 2009, c. 5, s. 679].

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

CHAPTER III.3.1 REGISTERED MUSEUMS

Definitions:

985.35.1. In this chapter,

“disbursement quota”;

“disbursement quota” of a registered museum for a taxation year means an amount equal to the amount determined for the year in accordance with sections 985.9 to 985.9.4 as if the registered museum were a charity registered as a charitable organization;

“qualified donee”;

“qualified donee” means a donee who is

(a) described in subparagraph i of paragraph d of section 710, paragraph g or k of the definition of “qualified donee” in section 999.2 or subparagraph ii 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;

(b) a national arts service organization validly registered as such under subsection 6.4 of section 149.1 of the Income Tax Act;

(c) a municipal or public body performing a function of government in Canada;

(d) a certified archival centre; or

(e) a registered museum established for purposes similar to those for which the registered museum making the gift was established;

“taxation year”.

“taxation year” means, in the case of a registered museum, a fiscal period.

History: 2006, c. 36, s. 97; 2012, c. 8, s. 167; 2013, c. 10, s. 85.

Registered museum.

985.35.2. On application made to the Minister in prescribed form, the Minister may register an organization as a museum, if the Minister is of the opinion that the organization meets the following conditions:

(a) it is a museum recognized by the Minister of Culture and Communications and whose recognition is in force; and

(b) it is neither a registered charity nor a registered cultural or communications organization.

History: 2006, c. 36, s. 97.

Expenses to be made.

985.35.3. A registered museum is required to expend, in a taxation year, on museum activities carried on by it or by way of gifts made to a qualified donee, an amount that is at least equal to its disbursement quota for the year.

History: 2006, c. 36, s. 97.

Amount specified by the Minister.

985.35.4. On application made to the Minister in prescribed form by a registered museum, the Minister may specify an amount in respect of the museum for a taxation year and, for the purposes of section 985.35.3, that amount is deemed to be an amount expended by the museum in the year on museum activities carried on by it.

History: 2006, c. 36, s. 97.

Use of disbursement excess.

985.35.5. If a registered museum has expended a disbursement excess for a particular taxation year, the museum may, for the purpose of determining whether it complies with the requirement of section 985.35.3 for the preceding taxation year or any of the five subsequent taxation years, include in computing the amounts expended on museum activities carried on by it or by way of gifts made to a qualified donee, the portion of the disbursement excess for the particular year that was not so included under this section for a preceding taxation year.

Disbursement excess.

The disbursement excess referred to in the first paragraph is the amount by which the aggregate of all amounts expended in the particular year by the registered museum on museum

activities carried on by it or by way of gifts made to a qualified donee exceeds its disbursement quota for that year.

History: 2006, c. 36, s. 97.

Accumulation of property for a particular purpose.

985.35.6. A registered museum may, with the Minister's approval in writing, accumulate property for a particular purpose, on such terms and conditions, and over such period of time, as specified in the approval.

Computing the disbursement quota.

Any property accumulated after receipt of and in accordance with the approval referred to in the first paragraph, including the income related to that property, is not to be included in computing the prescribed amount in subparagraph *i* of subparagraph *b* of the second paragraph of section 985.9 for the portion of any taxation year in the period, except to the extent that the registered museum is not in compliance with the terms and conditions of the approval.

History: 2006, c. 36, s. 97; 2009, c. 5, s. 413; 2011, c. 34, s. 55.

Information return.

985.35.7. Every registered museum shall, within six months after the end of each of its taxation years, file with the Minister an information return for the year, in prescribed form and containing the prescribed information, without notice or demand.

History: 2006, c. 36, s. 97.

Revocation of the registration of a museum.

985.35.8. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration of a museum if the museum

(a) fails to comply with the requirement of section 985.35.3 for a taxation year;

(b) ceases to meet the conditions set out in paragraphs *a* and *b* of section 985.35.2; or

(c) makes a payment in the form of a gift, other than a gift made in the course of museum activities carried on by it, to a donee that is not a qualified donee at the time the gift is made.

History: 2006, c. 36, s. 97.

Revocation of the registration as a result of a transaction.

985.35.9. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration

(a) of a registered museum, if it has entered into a transaction (including a gift to another registered museum) and it may reasonably be considered that a purpose of the

transaction was to avoid or unduly delay the obligation to expend amounts on museum activities;

(b) of a registered museum, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered museum to which paragraph *a* applies was to assist the other registered museum in avoiding or unduly delaying the obligation to expend amounts on museum activities; and

(c) of a registered museum, if it has in a taxation year received a gift of property from another registered museum with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those two taxation years, an amount that is less than the fair market value of the property, on museum activities carried on by it or by way of gifts made to a qualified donee with which it deals at arm's length.

History: 2006, c. 36, s. 97; 2011, c. 34, s. 56.

Provisions applicable.

985.35.10. Paragraph *e* of section 985.8.1, sections 985.8.5, 985.8.5.1 and 1063 to 1065, and sections 93.1.9.1, 93.1.9.2, 93.1.10.1 and 93.1.17 to 93.1.22 of the Tax Administration Act (chapter A-6.002) apply, with the necessary modifications, to a registered museum, or in respect of an application for registration as such a museum, as if it were a registered charity or an application for registration as a charity, as the case may be.

History: 2006, c. 36, s. 97; 2010, c. 31, s. 175; 2012, c. 8, s. 168.

Corresponding Federal Provision: 149.1(4.1)(e), (4.2)(c), (22) and (25).

CHAPTER III.3.2 REGISTERED CULTURAL OR COMMUNICATIONS ORGANIZATIONS

Definitions:

985.35.11. In this chapter,

“disbursement quota”;

“disbursement quota” of a registered cultural or communications organization for a taxation year means an amount equal to the amount determined for the year in accordance with sections 985.9 to 985.9.4 as if the registered cultural or communications organization were a charity registered as a charitable organization;

“qualified donee”;

“qualified donee” means a donee who is

(a) described in subparagraph *i* of paragraph *d* of section 710, in paragraph *f* or *k* of the definition of “qualified donee” in section 999.2 or in subparagraph *ii* 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;

(b) a national arts service organization validly registered as such under subsection 6.4 of section 149.1 of the Income Tax Act;

(c) a municipal or public body performing a function of government in Canada;

(d) a certified archival centre; or

(e) a registered cultural or communications organization established for purposes similar to those for which the registered cultural or communications organization making the gift was established;

“taxation year”.

“taxation year” means, in the case of a registered cultural or communications organization, a fiscal period.

History: 2006, c. 36, s. 97; 2012, c. 8, s. 169; 2013, c. 10, s. 86.

Registered cultural or communications organization.

985.35.12. On application made to the Minister in prescribed form, the Minister may register an organization as a cultural or communications organization, if the Minister is of the opinion that the organization meets the following conditions:

(a) it is recommended by the Minister of Culture and Communications to be registered as such;

(b) it is a person described in section 996; and

(c) it is not a registered charity.

Presumption.

An arts organization whose recognition as a recognized arts organization is in force on 29 June 2006, is deemed to be registered as a cultural or communications organization in accordance with the first paragraph.

History: 2006, c. 36, s. 97.

Expenses to be made.

985.35.13. A registered cultural or communications organization is required to expend, in a taxation year, on artistic, cultural or communications activities carried on by it or by way of gifts made to a qualified donee, an amount that is at least equal to its disbursement quota for the year.

History: 2006, c. 36, s. 97.

Amount specified by the Minister.

985.35.14. On application made to the Minister in prescribed form by a registered cultural or communications organization, the Minister may specify an amount in respect of the organization for a taxation year and, for the purposes of section 985.35.13, that amount is deemed to be an amount

expended by the organization in the year on artistic, cultural or communications activities carried on by it.

History: 2006, c. 36, s. 97.

Use of disbursement excess.

985.35.15. If a registered cultural or communications organization has expended a disbursement excess for a particular taxation year, the organization may, for the purpose of determining whether it complies with the requirement of section 985.35.13 for the preceding taxation year or any of the five subsequent taxation years, include in computing the amounts expended on artistic, cultural or communications activities carried on by it or by way of gifts made to a qualified donee, the portion of the disbursement excess for the particular year that was not so included under this section for a preceding taxation year.

Disbursement excess.

The disbursement excess referred to in the first paragraph is the amount by which the aggregate of all amounts expended in the particular year by the registered cultural or communications organization on artistic, cultural or communications activities carried on by it or by way of gifts made to a qualified donee exceeds its disbursement quota for that year.

History: 2006, c. 36, s. 97.

Accumulation of property for a particular purpose.

985.35.16. A registered cultural or communications organization may, with the Minister’s approval in writing, accumulate property for a particular purpose, on such terms and conditions, and over such period of time, as specified in the approval.

Computing the disbursement quota.

Any property accumulated after receipt of and in accordance with the approval referred to in the first paragraph, including the income related to that property, is not to be included in computing the prescribed amount in subparagraph *i* of subparagraph *b* of the second paragraph of section 985.9 for the portion of any taxation year in the period, except to the extent that the registered cultural or communications organization is not in compliance with the terms and conditions of the approval.

History: 2006, c. 36, s. 97; 2009, c. 5, s. 414; 2011, c. 34, s. 57.

Information return.

985.35.17. Every registered cultural or communications organization shall, within six months after the end of each of its taxation years, file with the Minister an information return for the year, in prescribed form and containing the prescribed information, without notice or demand.

History: 2006, c. 36, s. 97.

Revocation of the registration of a cultural or communications organization.

985.35.18. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration of a cultural or communications organization if the organization

(a) fails to comply with the requirement of section 985.35.13 for a taxation year;

(b) ceases to meet the conditions set out in subparagraphs *a* to *c* of the first paragraph of section 985.35.12; or

(c) makes a payment in the form of a gift, other than a gift made in the course of artistic, cultural or communications activities carried on by it, to a donee that is not a qualified donee at the time the gift is made.

History: 2006, c. 36, s. 97.

Revocation of the registration as a result of a transaction.

985.35.19. The Minister may, in the manner described in sections 1064 and 1065, revoke the registration

(a) of a registered cultural or communications organization, if it has entered into a transaction (including a gift to another registered cultural or communications organization) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the obligation to expend amounts on artistic, cultural or communications activities;

(b) of a registered cultural or communications organization, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered cultural or communications organization to which paragraph *a* applies was to assist the other registered cultural or communications organization in avoiding or unduly delaying the obligation to expend amounts on artistic, cultural or communications activities; and

(c) of a registered cultural or communications organization, if it has in a taxation year received a gift of property from another registered cultural or communications organization with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those two taxation years, an amount that is less than the fair market value of the property, on artistic, cultural or communications activities carried on by it or by way of gifts made to a qualified donee with which it deals at arm's length.

History: 2006, c. 36, s. 97; 2011, c. 34, s. 58.

Provisions applicable.

985.35.20. Paragraph *e* of section 985.8.1, sections 985.8.5, 985.8.5.1 and 1063 to 1065, and sections 93.1.9.1, 93.1.9.2, 93.1.10.1 and 93.1.17 to 93.1.22

of the Tax Administration Act (chapter A-6.002) apply, with the necessary modifications, to a registered cultural or communications organization, or in respect of an application for registration as such an organization, as if it were a registered charity or an application for registration as a charity, as the case may be.

History: 2006, c. 36, s. 97; 2010, c. 31, s. 175; 2012, c. 8, s. 170.

Corresponding Federal Provision: 149.1(4.1)(e), (4.2)(c), (22) and (25).

CHAPTER III.4 POLITICAL EDUCATION ORGANIZATIONS

Definitions:

985.36. In this chapter,

“disbursement quota”;

“disbursement quota” of a recognized political education organization for a taxation year means an amount equal to the amount determined for the year in accordance with sections 985.9 to 985.9.4 as if the recognized political education organization were a charity registered as a charitable organization;

“qualified donee”;

“qualified donee” means a donee that is a recognized political education organization constituted for purposes similar to those for which the recognized political education organization making the gift was constituted;

“recognized political education organization”;

“recognized political education organization” means a non-profit organization recognized by the Minister, on the recommendation of the Minister responsible for Democratic Institutions, Electoral Reform and Access to Information, as having the mission to promote Québec sovereignty or Canadian unity through educational means and whose recognition is in force, other than a registered charity or a political party or an authority of such a party;

“taxation year”.

“taxation year” means, in the case of a recognized political education organization, a fiscal period.

Effective date of recognition.

The recognition granted by the Minister to an organization for the purposes of the definition of “recognized political education organization” in the first paragraph takes effect from the latest of

(a) 19 December 2002;

(b) 1 January of the year in which the recognition is granted; and

(c) the date on which the organization was constituted.

History: 2004, c. 21, s. 243; 2005, c. 38, s. 229; 2006, c. 36, s. 98.

Expenditure requirement.

985.37. A recognized political education organization is required to expend, in any taxation year, on educational activities promoting Québec sovereignty or Canadian unity carried on by it or by way of gifts made by it to qualified donees, amounts that are at least equal to its disbursement quota for the year.

History: 2004, c. 21, s. 243.

Amount specified by the Minister.

985.38. The Minister may, on application made to the Minister in prescribed form by a recognized political education organization, specify an amount in respect of the organization for a taxation year and, for the purposes of section 985.37, that amount is deemed to be an amount expended by the organization in the year on educational activities promoting Québec sovereignty or Canadian unity carried on by it.

History: 2004, c. 21, s. 243.

Use of disbursement excess.

985.39. Where a recognized political education organization has expended a disbursement excess for a particular taxation year, the organization may, for the purpose of determining whether it complies with the requirement of section 985.37 for its preceding taxation year or any of its five subsequent taxation years, include in the computation of the amounts expended on educational activities promoting Québec sovereignty or Canadian unity carried on by it or by way of gifts made by it to qualified donees, such portion of the disbursement excess for the particular year as was not so included under this section for any preceding taxation year.

Disbursement excess.

The disbursement excess referred to in the first paragraph means the amount by which the aggregate of all amounts expended in the particular year by the recognized political education organization on educational activities promoting Québec sovereignty or Canadian unity carried on by it or by way of gifts made to qualified donees exceeds its disbursement quota for that year.

History: 2004, c. 21, s. 243.

Accumulation of property for a particular purpose.

985.40. A recognized political education organization may, with the approval in writing of the Minister, accumulate property for a particular purpose, on such terms and conditions, and over such period of time, as specified in the approval.

Computing the disbursement quota.

Any property accumulated after receipt of and in accordance with the approval referred to in the first paragraph, including

the income related to that property, is not to be included in computing the prescribed amount in subparagraph *i* of subparagraph *b* of the second paragraph of section 985.9 for the portion of any taxation year in the period, except to the extent that the recognized political education organization is not in compliance with the terms and conditions of the approval.

History: 2004, c. 21, s. 243; 2009, c. 5, s. 415; 2011, c. 34, s. 59.

Information return.

985.41. Every recognized political education organization shall, within six months from the end of each of its taxation years, file with the Minister an information return for the year, in prescribed form and containing the prescribed information, without notice or demand therefor.

History: 2004, c. 21, s. 243.

Revocation of recognition.

985.42. The Minister may, in the manner described in sections 1064 and 1065, revoke the recognition of a recognized political education organization if the organization

(a) fails to comply with the requirement of section 985.37 for a taxation year; or

(b) makes a payment in the form of a gift to a donee that is not a qualified donee at the time the gift is made.

History: 2004, c. 21, s. 243; 2009, c. 5, s. 416.

Revocation of recognition as a result of a transaction.

985.43. The Minister may, in the manner described in sections 1064 and 1065, revoke the recognition

(a) of a recognized political education organization, if it has entered into a transaction (including a gift to another recognized political education organization) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the obligation to expend amounts on educational activities promoting Québec sovereignty or Canadian unity;

(b) of a recognized political education organization, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another recognized political education organization to which paragraph *a* applies was to assist the other recognized political education organization in avoiding or unduly delaying the obligation to expend amounts on educational activities promoting Québec sovereignty or Canadian unity; and

(c) of a recognized political education organization, if it has in a taxation year received a gift of property from another recognized political education organization with which it does not deal at arm's length and it has expended, before the

end of the next taxation year, in addition to its disbursement quota for each of those two taxation years, an amount that is less than the fair market value of the property, on educational activities promoting Québec sovereignty or Canadian unity carried on by it or by way of gifts made to a qualified donee with which it deals at arm's length.

History: 2004, c. 21, s. 243; 2011, c. 34, s. 60.

Provisions applicable.

985.44. Paragraph *e* of section 985.8.1, sections 985.8.5, 985.8.5.1 and 1063 to 1065, and sections 93.1.9.1, 93.1.9.2, 93.1.10.1 and 93.1.17 to 93.1.22 of the Tax Administration Act (chapter A-6.002) apply, with the necessary modifications, to a recognized political education organization, or in respect of an application for recognition as such an organization, as if it were a registered charity or an application for registration as a charity, as the case may be.

History: 2004, c. 21, s. 243; 2005, c. 38, s. 230; 2010, c. 31, s. 175; 2012, c. 8, s. 171.

Corresponding Federal Provision: 149.1(4.1)(e), (4.2)(c), (22) and (25).

CHAPTER IV OTHER ORGANIZATIONS

Exception to tax exemption.

986. (1) No organization or person contemplated in this chapter shall claim the tax exemption provided therein if part of its or his income is payable to any proprietor, member or shareholder thereof, or is otherwise made available for the personal benefit of any proprietor, member or shareholder.

Income of an organization.

(2) For the purposes of subsection 1, the income of an organization is deemed to be the amount thereof determined on the assumption that the amount of any taxable capital gain or allowable capital loss is nil.

Restriction.

(3) Subsection 1 does not apply to a club, society or association referred to in section 996 if the proprietor, member or shareholder referred to in the said subsection is a club, society or association referred to in the said section having as its primary purpose and primary function, the promotion of amateur athletics in Canada.

History: 1972, c. 23, s. 718; 1975, c. 22, s. 230; 1978, c. 26, s. 194; 1994, c. 22, s. 309; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 996-2; IMP. 996-3/R1; IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(e), (i), (j) and (l) and (2).

987. (Repealed).

History: 1972, c. 23, s. 719; 1978, c. 26, s. 195.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

988. (Repealed).

History: 1972, c. 23, s. 720; 1973, c. 17, s. 112; 1975, c. 22, s. 231; 1978, c. 26, s. 196.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

989. (Repealed).

History: 1972, c. 23, s. 721; 1978, c. 26, s. 197.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

990. (Repealed).

History: 1972, c. 23, s. 722; 1973, c. 17, s. 113; 1974, c. 18, s. 31; 1975, c. 22, s. 232; 1978, c. 26, s. 198.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Non-profit corporations for scientific research and experimental development.

991. A corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research and experimental development is exempt from tax if it has not acquired control of any other corporation, if it does not carry on any business and if at least 90% of the amount by which the corporation's gross revenue for the period referred to in section 980 exceeds the aggregate of all amounts paid in the period by the corporation because of subsection 7.1 of section 149 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or section 991.2 is expended in Canada

(a) as an expenditure on scientific research and experimental development, within the meaning of section 230, but excluding an expenditure referred to in paragraph *a* of section 230.0.0.2, directly undertaken by or on behalf of the corporation, or

(b) as a payment to any of the entities described in subparagraphs i and ii of paragraph *d* of subsection 1 of section 222, to be used for scientific research and experimental development.

Contributions and gifts to be included in the income and gross revenue.

For the purposes of subsection 1 of section 986 and of this section, such corporation shall include in computing its income and in determining its gross revenue all amounts contributed to the corporation to be used for scientific research and experimental development and the amount of all gifts made to it.

History: 1972, c. 23, s. 723; 1987, c. 67, s. 179; 1990, c. 59, s. 334; 1997, c. 3, s. 71; 1997, c. 31, s. 91; 2015, c. 21, s. 354.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(j) and (8)(b).

Filing of a prescribed form.

991.1. A corporation that is exempt from tax under this Part for a taxation year because of section 991 shall file with the Minister, on or before its filing-due date for the year, the prescribed form containing the prescribed information.

History: 1997, c. 31, s. 92.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(7).

Penalty for failure to file on time.

991.2. Where a corporation fails to file the prescribed form as required by section 991.1 for a taxation year, it incurs a penalty equal to the amount determined by the formula

$A \times B$.

Interpretation.

For the purposes of the formula in the first paragraph,

(a) A is the greater of \$250 and 0.75% of the corporation's taxable income for the year;

(b) B is the lesser of 12 and the number of months in whole or in part that are in the period that begins on the day on or before which the prescribed form is required to be filed and ends on the day it is filed.

History: 1997, c. 31, s. 92.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(7.1).

Allowable deductions.

992. In determining the gross revenue of a corporation for the purpose of determining whether the corporation is described by section 991 for a taxation year, there may be deducted an amount not exceeding its gross revenue for the year computed before applying this section, and there shall be included any amount that has been deducted under this section for the preceding taxation year.

History: 1972, c. 23, s. 724; 1978, c. 26, s. 199; 1982, c. 5, s. 176; 1997, c. 3, s. 71; 1997, c. 31, s. 93.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(9).

993. (Repealed).

History: 1972, c. 23, s. 725; 1978, c. 26, s. 200; 1982, c. 5, s. 177.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Controlled corporation.

994. For the purposes of section 991, a corporation is deemed to be controlled by another corporation, if more than 50 per cent of its issued capital stock having full voting rights is owned by such other corporation or at once by such other corporation and by persons with whom such other

corporation does not deal at arm's length; however, such corporation is not deemed to have acquired control of a corporation if it has not purchased or otherwise acquired subject to payment any share in the capital stock of such corporation.

History: 1972, c. 23, s. 726; 1978, c. 26, s. 201; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(8)(a).

Agricultural organizations, board of trade and certain housing corporations.

995. The following are exempt from tax:

(a) an agricultural organization or a board of trade;

(b) a corporation constituted exclusively for the purpose of providing low-cost housing accommodation for the aged.

History: 1972, c. 23, s. 727; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(e) and (i).

Non-profit clubs, associations.

996. A club, society or association, established and operated exclusively for non-profit purposes, that, in the Minister's opinion, is not a charity, is exempt from tax.

History: 1972, c. 23, s. 728; 1978, c. 26, s. 202; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 2009, c. 5, s. 417.

Interpretation Bulletins: IMP. 996-2; IMP. 996-3/R1; IMP. 1029.8.17-1/R1 .

Corresponding Federal Provision: 149(1)(l).

Inter vivos trust.

997. Where the main object of a club, society or association contemplated in section 996 is to provide dining, recreational or sporting facilities for its members, a trust is deemed, after 31 December 1971, to have been created and the following rules apply:

(a) its property is deemed to be the property of the trust;

(b) if it is a corporation, it is deemed to be the trustee having control of the trust property;

(c) if it is not a corporation, its officers are deemed to be the trustees having control of the trust property;

(d) the trust shall pay the tax under this Part on its taxable income for each taxation year;

(e) the income and the taxable income of the trust are computed for each taxation year on the assumption that it had no income or losses other than income and losses from property and taxable capital gains and allowable capital losses from disposition of property other than property used exclusively and directly for the main objects of the club, society or association;

(f) an additional amount of \$2,000 may be deducted in computing its taxable income for each taxation year but no deduction is permitted under sections 738 to 749;

(g) the provisions of Title XII of Book III, except sections 646 and 647, do not apply to such trust.

History: 1972, c. 23, s. 729; 1977, c. 26, s. 106; 1986, c. 15, s. 169; 1986, c. 19, s. 182; 1989, c. 5, s. 195; 1997, c. 3, s. 51; 2017, c. 1, s. 260.

Interpretation Bulletins: IMP. 996-2; IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 149(5).

Information return.

997.1. Every person who is exempt from tax under this Part because of paragraph *a* of section 995 or section 996 shall, within six months after the end of each fiscal period of the person and without notice or demand therefor, file with the Minister an information return for the period in prescribed form and containing prescribed information, if

(a) the aggregate of all amounts each of which is a taxable dividend or an amount received or receivable by the person as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties in the period exceeds \$10,000;

(b) at the end of the person's preceding fiscal period the total assets of the person, determined in accordance with generally accepted accounting principles, exceeded \$200,000; or

(c) an information return was required to be filed under this section by the person for a preceding fiscal period.

History: 1994, c. 22, s. 310.

Interpretation Bulletins: IMP. 996-3/R1; 1029.8.17-1/R1.
Corresponding Federal Provision: 149(12).

CHAPTER V MISCELLANEOUS CASES

Miscellaneous exemptions.

998. The following are exempt from tax:

(a) an association of employees within the meaning of the Labour Code (chapter C-27) or a benevolent or fraternal benefit society or order;

(b) a mutual insurance corporation receiving its premiums wholly from the insurance of churches, schools or charitable organizations;

(b.1) (*paragraph repealed*);

(c) a limited-dividend housing company within the meaning of section 2 of the National Housing Act (Revised Statutes of Canada, 1985, chapter N-11) all or substantially all of the business of which is the construction, holding or management of low-rental housing projects;

(c.1) a corporation accepted, under paragraph *o.1* of subsection 1 of section 149 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) by the Minister of Revenue of Canada as a funding medium for the purposes of the registration of a plan as a registered pension plan, and incorporated and operated throughout the period referred to in section 980

i. solely for the administration of that registered pension plan, or

ii. for the administration of that registered pension plan and for no other purpose other than acting as trustee of, or administering, a trust governed by a retirement compensation arrangement, where the terms of the arrangement provide for benefits only in respect of individuals who are provided with benefits under the registered pension plan;

(c.2) a corporation all of the shares, and rights to acquire shares, of the capital stock of which were owned by one or more registered pension plans, by one or more trusts all the beneficiaries of which are registered pension plans, by one or more segregated fund trusts, within the meaning of subparagraph *k* of the first paragraph of section 835, all the beneficiaries of which are registered pension plans or by one or more prescribed persons, or, in the case of a corporation without share capital, all the property of which was held exclusively for the benefit of one or more such plans and, in either case, without interruption from the later of 16 November 1978 and the date on which the corporation was incorporated, and which is a corporation that

i. was incorporated before 17 November 1978 solely for the administration of a registered pension plan or in connection with that plan, or

ii. has, without interruption from the later of 16 November 1978 and the date on which it was incorporated,

(1) limited its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is immovable property, or real rights in such property, owned by the corporation, a registered pension plan or another corporation described in this paragraph, other than a corporation without share capital, and investing its funds in a partnership that limits its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is immovable property, or real rights in such property, owned by the partnership,

(2) borrowed money solely for the purpose of earning income from immovable property or a real right in such property, and

(3) made no investments other than investments in immovable property, or a real right in such property, or investments that a pension plan is permitted to make under the Pension Benefits Standards Act, 1985 (Revised Statutes

- of Canada, 1985, chapter 32, 2nd Supplement) or a similar law of a province,
- iii. has made no investments other than investments that a pension plan is permitted to make under the Pension Benefits Standards Act, 1985 or a similar law of a province, and whose assets were at least 98% cash and investments, that has not issued bonds, notes, debentures or similar obligations or accepted deposits, and has derived at least 98% of its income for the period referred to in section 980 that is a taxation year of the corporation from, or from the disposition of, investments, or
- iv. throughout the period referred to in section 980, has limited its activities to acquiring Canadian resource properties by purchase or by incurring Canadian exploration expenses or Canadian development expenses, or holding, exploring, developing, maintaining, improving, managing, operating or disposing of its Canadian resource properties, borrowed money solely for the purpose of earning income from Canadian resource properties and made no investments other than in Canadian resource properties, in property to be used in connection with Canadian resource properties acquired by purchase or by incurring Canadian exploration expenses or Canadian development expenses, in loans secured by Canadian resource properties for the purpose of acquiring, holding, exploring, developing, maintaining, improving, managing, operating or disposing of a Canadian resource property or in investments that a pension plan is permitted to make under the Pension Benefits Standards Act, 1985 or a similar law of a province;
- (c.3) a corporation that is a small business investment corporation within the meaning of the regulations;
- (c.4) a trust that is a master trust within the meaning of the regulations and that elects to be such a trust under this paragraph in its fiscal return for its first taxation year ending in the period referred to in section 980;
- (d) a trust established under a registered pension plan;
- (e) a trust established under a profit sharing plan to the extent provided in Title I of Book VII;
- (f) a trust established under a deferred profit sharing plan to the extent provided in Title II of Book VII;
- (f.1) an RCA trust, within the meaning of subparagraph *c* of the first paragraph of section 890.1;
- (g) a trust established under a registered education savings plan, to the extent provided in Title III of Book VII;
- (g.1) a trust established under a registered disability savings plan, to the extent provided in Title III.1 of Book VII;
- (h) a trust established under a registered retirement savings plan to the extent provided in Title IV of Book VII;
- (h.1) a trust established under a tax-free savings account, to the extent provided in Title IV.3 of Book VII;
- (i) (*paragraph repealed*);
- (i.1) a trust established under a registered retirement income fund to the extent provided in Title V.1 of Book VII;
- (j) a trust established under a registered supplementary unemployment benefit plan to the extent provided by sections 962 to 965;
- (j.0.1) a trust governed by a pooled registered pension plan to the extent provided in Title VI.0.2 of Book VII;
- (j.1) a trust governed by an eligible funeral arrangement;
- (j.2) a cemetery care trust;
- (k) (*paragraph repealed*);
- (l) a trust established in accordance with a law of Canada or of a province in order to provide funds out of which to compensate persons for claims against the owner of a business contemplated in the relevant law, where that owner is unwilling or unable to compensate his customers or clients, if no part of the property of the trust, after payment of its proper expenses, is available to persons other than clients or customers of such business and as such;
- (m) a trust established pursuant to a collective agreement between an employer or an employers' association and employees or an association of employees for the sole purpose of providing for the payment of holiday or vacation pay, if the aggregate of the property of the trust, after payment of its reasonable expenses, is not paid after 11 December 1979 or is not available after 1980 except to a person referred to in paragraph *a*, to a person as a consequence of his employment, or to an legatee by particular title or legal representative of the latter person;
- (n) an amateur athlete trust;
- (o) an environmental trust;
- (p) a trust
- i. that was created because of a requirement imposed by section 56 of the Environment Quality Act (chapter Q-2),
 - ii. that is resident in Canada, and
 - iii. in which the only persons that are beneficially interested are
- (1) the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec, or

(2) a municipality, within the meaning of section 1 of that Act, that is exempt under this Book from tax under this Part on all of its taxable income; or

(q) a trust

i. that was created because of a requirement imposed by subsection 1 of section 9 of the Nuclear Fuel Waste Act (Statutes of Canada, 2002, chapter 23),

ii. that is resident in Canada, and

iii. in which the only persons that are beneficially interested are

(1) the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec,

(2) a nuclear energy corporation, within the meaning of section 2 of that Act, all of the shares of the capital stock of which are owned by one or more persons described in subparagraph 1,

(3) the waste management organization established under section 6 of that Act if all of the shares of its capital stock are owned by one or more nuclear energy corporations described in subparagraph 2, or

(4) Atomic Energy of Canada Limited, being the company incorporated or acquired under subsection 2 of section 10 of the Atomic Energy Control Act (Revised Statutes of Canada, 1970, chapter A-19).

History: 1972, c. 23, s. 730; 1974, c. 18, s. 32; 1975, c. 21, s. 25; 1977, c. 26, s. 107; 1979, c. 18, s. 69; 1980, c. 13, s. 101; 1982, c. 5, s. 178; 1982, c. 52, s. 202; 1984, c. 15, s. 229; 1985, c. 25, s. 144; 1987, c. 67, s. 180; 1988, c. 18, s. 112; 1989, c. 77, s. 96; 1990, c. 59, s. 335; 1991, c. 25, s. 163; 1993, c. 16, s. 321; 1994, c. 22, s. 311; 1995, c. 49, s. 236; 1995, c. 63, s. 112; 1996, c. 39, s. 249; 1997, c. 3, s. 52; 1997, c. 14, s. 176; 1998, c. 16, s. 217; 2000, c. 5, s. 232; 2002, c. 45, s. 520; O.C. 45-2004; 2004, c. 8, s. 176; 2004, c. 37, s. 90; 2005, c. 23, s. 136; 2009, c. 5, s. 418; 2009, c. 15, s. 181; 2010, c. 25, s. 107; 2015, c. 21, s. 355; 2015, c. 36, s. 67; 2020, c. 16, s. 142; 2019, c. 14, s. 292.

Interpretation Bulletins: 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1), (5), (8)(a) and (12).

Application of s. 549.

998.1. For the purposes of paragraph c.2 of section 998, where it must be determined if a corporation is a corporation all of the shares, and rights to acquire shares, of the capital stock of which were owned by one or more registered pension plans, where there has been a merger, within the meaning of section 544, of corporations, section 549 applies and the shares of the predecessor corporations are deemed to

have been altered, in form only, and to be shares of the new corporation.

History: 1980, c. 13, s. 102; 1991, c. 25, s. 164; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(1)(o.2) in fine.

Exception regarding certain income of benevolent society.

999. There is no tax exemption for the income from a life insurance business carried on by a benevolent or fraternal benefit society; such income is however computed as if such society has no other income or loss than from that source.

Interpretation.

The income referred to in the first paragraph includes income from the sale of property used or held by the benevolent or fraternal benefit society in the year in the course of carrying on a life insurance business.

History: 1972, c. 23, s. 731; 1990, c. 59, s. 336; 1997, c. 3, s. 53.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(3) and (4).

999.0.1. (Repealed).

History: 1990, c. 59, s. 337; 1993, c. 16, s. 322; 1998, c. 16, s. 218; 2002, c. 45, s. 520; O.C. 45-2004; 2004, c. 37, s. 90; 2019, c. 14, s. 293.

Corresponding Federal Provision: 149(4.1).

999.0.2. (Repealed).

History: 1990, c. 59, s. 337; 1993, c. 16, s. 323; 2019, c. 14, s. 293.

Corresponding Federal Provision: 149(4.2) before (a).

999.0.3. (Repealed).

History: 1990, c. 59, s. 337; 1993, c. 16, s. 323; 1997, c. 3, s. 71; 1998, c. 16, s. 219; 2019, c. 14, s. 293.

Corresponding Federal Provision: 149(4.2)(a) and (b).

999.0.4. (Repealed).

History: 1990, c. 59, s. 337; 1993, c. 16, s. 323; 2019, c. 14, s. 293.

Corresponding Federal Provision: 149(4.1)(part) and (4.2)(part).

999.0.5. (Repealed).

History: 1993, c. 16, s. 324; 2015, c. 24, s. 128; 2019, c. 14, s. 293.

Corresponding Federal Provision: 149(4.3).

Becoming or ceasing to be exempt. 999.1.

999.1. Where, at any time (in this section referred to as “that time”), a person that is a corporation or, if that time is after 12 September 2013, a trust becomes or ceases to be exempt from tax under this Part on its taxable income, the following rules apply:

(a) the taxation year of the person—where the person is either a corporation and subsection 10 of section 149 of the

Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) does not apply to the corporation in respect of that time, or a trust—that would otherwise include that time is deemed to end immediately before that time and a new taxation year of the person is deemed to begin at that time and, if the person is a corporation, to end at the time at which its taxation year (determined for the purposes of the Income Tax Act) that includes that time, ends;

(a.0.1) *(paragraph repealed)*;

(a.1) for the purpose of computing the person's income for its first taxation year ending after that time, the person is deemed to have deducted under Chapter III of Title III of Book III and Chapters II and III of Title V of Book VI in computing its income for its taxation year ending immediately before that time, the greatest amount that could have been claimed or deducted for that year as a reserve under those provisions;

(b) the person is deemed to dispose, at the time (in this section referred to as the “disposition time”) that is immediately before the time that is immediately before that time, of each property that was owned by it immediately before that time for an amount equal to its fair market value at that time, and to reacquire the property at that time at a cost equal to that fair market value; and

(c) *(paragraph repealed)*;

(d) *(paragraph repealed)*;

(e) for the purposes of sections 222 to 230.0.0.6, 330, 359 to 418.36, 419 to 419.4, 419.6, 600.1, 600.2, 727 to 737 and 772.2 to 772.13, the person is deemed to be a new corporation or a new trust, as the case may be, the first taxation year of which began at that time;

(f) *(paragraph repealed)*.

History: 1984, c. 15, s. 230; 1986, c. 19, s. 183; 1989, c. 77, s. 97; 1990, c. 59, s. 338; 1994, c. 22, s. 312; 1995, c. 49, s. 227; 1997, c. 3, s. 71; 2000, c. 5, s. 233; 2005, c. 1, s. 207; 2009, c. 5, s. 419; 2017, c. 1, s. 261; 2019, c. 14, s. 294.

Interpretation Bulletins: IMP. 996-3/R1; IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 149(10).

TITLE II QUALIFIED DONEES

CHAPTER I DEFINITION

Definition: “qualified donee”.

999.2. In this Title, “qualified donee”, at a particular time, means

(a) a person described in any of subparagraphs i to 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;

(b) a registered charity;

(c) a registered Canadian amateur athletic association;

(d) a registered Québec amateur athletic association;

(e) a recognized political education organization;

(f) a registered museum;

(g) a registered cultural or communications organization;

(h) the Organisation internationale de la Francophonie or any of its subsidiary bodies;

(i) the United Nations or any of its agencies;

(j) a foreign charitable organization to which the State has made a gift in the 36-month period that begins 24 months before that time; or

(k) the State or Her Majesty in right of Canada or a province, other than Québec.

History: 2012, c. 8, s. 172; 2013, c. 10, s. 87.

Corresponding Federal Provision: 149.1(1) “qualified donee”.

CHAPTER II TEMPORARY SUSPENSION OF THE AUTHORITY TO ISSUE RECEIPTS

Notice of suspension.

999.3. The Minister may give notice by registered mail to a person that is a municipality referred to in paragraph a of the definition of “qualified donee”, provided it is a Québec municipality, or that is a person referred to in any of paragraphs b to g of that definition, such a person being referred to as a “donee” in this chapter, that the authority of the person to issue receipts in accordance with the regulations is suspended for one year from the eighth day after the notice is mailed if

(a) the donee contravenes any of the provisions of Division V of Chapter III of the Tax Administration Act (chapter A-6.002);

(b) it may reasonably be considered that the donee has acted, in concert with another donee that is the subject of a suspension under this Book, to accept a gift or transfer of property on behalf of that other donee;

(c) an ineligible individual is a director, trustee, officer or like official of the donee, or controls or manages the donee, directly or indirectly, in any manner whatever, unless the donee is a municipality;

(d) where the donee is a registered charity that is a charitable foundation, the foundation devotes resources, in respect of which it is not deemed under section 985.2.3 to be constituted and operated for charitable purposes, to political activities;

(e) where the donee is a registered charity that is a charitable organization, the organization devotes resources, which are not deemed under section 985.2.4 to be devoted to charitable activities, to political activities; or

(f) where the donee is a registered Canadian amateur athletic association or a registered Québec amateur athletic association, the association devotes resources, which are not deemed under section 985.23.5 to be devoted to its exclusive purpose and exclusive function, to political activities.

Meaning of “ineligible individual”.

For the purposes of the first paragraph, “ineligible individual” has the meaning assigned by paragraph *h* of section 985.1 where the donee is a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association, and, in any other case, has the meaning that would be assigned by that paragraph *h*, if that paragraph applied to the donee, with the necessary modifications.

History: 2012, c. 8, s. 172; 2013, c. 10, s. 88.

Corresponding Federal Provision: 188.2(2)(a), (b) and (d) to (g).

Notice of suspension.

999.3.1. If a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association fails to provide information in a prescribed form filed under section 985.22 or 985.23.7, as the case may be, the Minister may give notice by registered mail to the charity or association that its authority to issue a receipt in accordance with the regulations is suspended as of the eighth day that follows the day on which the notice is sent until such time as the Minister notifies the charity or association that the Minister has received the required information in prescribed form.

History: 2013, c. 10, s. 89.

Corresponding Federal Provision: 188.2(2.1).

Effect of suspension.

999.4. Subject to section 93.1.9.2 of the Tax Administration Act (chapter A-6.002), the following rules apply if the Minister has issued a notice to a donee in accordance with section 999.3 or 999.3.1:

(a) the donee is deemed, in respect of gifts made and property transferred to the donee within the one-year period that begins on the day that is seven days after the notice is mailed, not to be a qualified donee for the purposes of sections 710 and 752.0.10.1 and the Regulation respecting the Taxation Act (chapter I-3, r. 1); and

(b) if the donee is, during that period, offered a gift from any person, the donee shall, before accepting the gift, inform that person that it has received the notice that no deduction under any of sections 710 and 752.0.10.6 to 752.0.10.6.2 may be claimed in respect of a gift made to it in the period, and that a gift made in the period is not a gift to a qualified donee.

History: 2012, c. 8, s. 172; 2013, c. 10, s. 90; 2015, c. 21, s. 356.

Corresponding Federal Provision: 188.2(3).

Presumption of suspension.

999.5. If the authority of a qualified donee to issue receipts is suspended for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under any of subsections 1 to 2.1 of section 188.2 of that Act, the authority is deemed to be suspended for the purposes of this Act and the regulations, subject to a postponement of the period of suspension under subsection 4 of that section 188.2.

History: 2012, c. 8, s. 172; 2013, c. 10, s. 91.

Corresponding Federal Provision: 188.2(4).

BOOK IX

RETURNS, ASSESSMENTS AND PAYMENTS

TITLE I RETURNS

Fiscal returns to be filed.

1000. (1) A fiscal return containing the prescribed information shall be filed with the Minister in prescribed form, without notice or demand therefor, for each taxation year in the case of a corporation, other than a corporation described in section 1003.1, and in the case of an individual, for each taxation year

(a) for which tax under this Part is payable or would be payable had the individual not deducted an amount in relation to a preceding taxation year and referred to in any of sections 727 to 737;

(b) in respect of which section 42.8 applies to the individual and in which the individual performed employment duties for a regulated establishment within the meaning of section 42.6;

(c) in which the individual has a taxable capital gain or disposes of capital property, where the individual is resident in Canada at any time in the year;

(c.1) at any particular time of which, the individual, as a specified trust, owns a specified immovable or is a member of a partnership that owns a specified immovable;

(c.2) for which, as a trust, other than an excluded trust for the year, the individual deducts an amount in computing income under paragraph *a* or *b* of section 657;

(c.3) on the last day of which the individual is a trust, other than an excluded trust for the year, that is resident in Québec and at any time of which the individual owns property the total of the cost amounts of which is greater than \$250,000;

(c.4) on the last day of which the individual is a trust, other than an excluded trust for the year, that is not resident in Québec and at any time of which the individual owns property the individual uses in the operation of a business in Québec the total of the cost amounts of which is greater than \$250,000;

(d) in which the individual has a taxable capital gain (otherwise than from an excluded disposition within the meaning of section 1003.2) or disposes of a taxable Québec property (otherwise than in such an excluded disposition), where the individual is not resident in Canada throughout the year; or

(e) at the end of which the individual's specified balance, as defined in the first paragraph of section 935.1 or 935.12, is a positive amount.

Persons who must file returns, and delays for filing.

(2) Such return must be filed by the following persons and within the following delays:

(a) in the case of a corporation, by or on behalf of the corporation within six months from the end of its taxation year;

(b) (*paragraph repealed*);

(c) in the case of a person who dies before the day following the day that would otherwise be the person's filing-due date, by the person's legal representatives on or before the person's filing-due date or within six months after the day of death;

(d) in the case of a succession or a trust, by the liquidator of the succession, the executor or the trustee, within 90 days after the end of its taxation year;

(e) in the case of any other person, by that person, on or before

i. 30 April of the following calendar year,

ii. 15 June of the following calendar year if the person is an individual who carried on a business in the taxation year, unless the expenditures made in the course of carrying on the

business were primarily the cost or capital cost of a tax shelter within the meaning assigned by section 851.38, or if at any time in the taxation year the person is the spouse of such an individual and the person and the individual are not living apart at that time, or

iii. where at any time in the taxation year the person was the spouse of an individual to whom paragraph *c* applies and the person and the individual were not living apart at that time, within the time specified in paragraph *c*; and

(f) in a case where no return has been filed under paragraphs *a* to *e*, by such person as is required by notice in writing from the Minister to file the return, within such reasonable time as the notice specifies.

Rules of application.

(2.1) For the purposes of paragraph *c.1* of subsection 1,

(a) "specified immovable" and "specified trust" have the meaning assigned by section 1129.77; and

(b) each member of a partnership, at any time, is deemed to be a member of another partnership of which the first partnership is a member at that time.

Excluded trust.

(2.2) For the purposes of paragraphs *c.2* to *c.4* of subsection 1, "excluded trust" for a taxation year means

(a) a succession;

(b) a testamentary trust that is resident in Québec on the last day of the year and that owns property the total of the cost amounts of which is, throughout the year, less than \$1,000,000;

(c) a testamentary trust that is not resident in Québec on the last day of the year and that owns property situated in Québec the total of the cost amounts of which is, throughout the year, less than \$1,000,000;

(d) a unit trust;

(e) an insurer's segregated fund trust;

(f) a mutual fund trust;

(g) a SIFT trust; or

(h) a tax-exempt trust.

Persons living apart.

(3) For the purposes of paragraph *e* of subsection 2, two persons shall be considered to be living apart at any time if they were living apart at that time, because of a breakdown

of their marriage, and the separation lasted for a period of at least 90 days.

History: 1972, c. 23, s. 732; 1972, c. 26, s. 68; 1975, c. 22, s. 233; 1986, c. 15, s. 170; 1987, c. 67, s. 181; 1993, c. 16, s. 325; 1993, c. 64, s. 127; 1994, c. 22, s. 313; 1995, c. 1, s. 109; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 1997, c. 14, s. 177; 1997, c. 31, s. 94; 1997, c. 85, s. 232; 1998, c. 16, s. 251; 2001, c. 7, s. 138; 2001, c. 53, s. 215; 2006, c. 13, s. 86; 2009, c. 15, s. 182; 2013, c. 10, s. 92; 2015, c. 21, s. 357.

Interpretation Bulletins: IMP. 520.1-1/R1; IMP. 996-3/R1; IMP. 1045-1/R3.

Corresponding Federal Provision: 150(1) and (1.1)(b)(iii).

Employee receiving tips.

1000.1. An individual who, for a taxation year, is referred to in paragraph *b* of subsection 1 of section 1000 shall file with the Minister, with the fiscal return the individual is required to file for the year under that section, the prescribed form containing the prescribed information.

History: 1997, c. 85, s. 233.

Amended fiscal return.

1000.2. If a taxpayer has deducted, in respect of a property described in the second paragraph, an amount in computing the taxpayer's income under paragraph *a* of section 130 or the second paragraph of section 130.1 for a taxation year ending before all the conditions applicable to the property and set out in the third paragraph have been met, and, in a subsequent taxation year, an event occurs that results in any of those conditions not being able to be met, the taxpayer shall, on or before the taxpayer's filing-due date for that subsequent taxation year, file with the Minister for any taxation year that precedes the subsequent taxation year and for which the taxpayer's fiscal return was filed by the taxpayer under section 1000, and for which tax consequences under this Part arise from the fact that, in the case of a property described in subparagraph *a* of the second paragraph, the property cannot be included in the class provided for in that subparagraph or, in the case of a property described in subparagraph *b* of the second paragraph, the property does not meet all the conditions prescribed under subparagraph *b* of the third paragraph, an amended fiscal return in which those tax consequences must be taken into account.

Interpretation.

The property to which the first paragraph refers is

(*a*) a property in Class 12 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) because of subparagraph *t* of the first paragraph of that class or of the second or fourth paragraph of that class; or

(*b*) a prescribed property.

Conditions.

The conditions to which the first paragraph refers are

(*a*) in the case of a property described in subparagraph *a* of the second paragraph, the conditions of subparagraph *t* of the first paragraph of Class 12 of Schedule B to the Regulation respecting the Taxation Act or of the second or fourth paragraph of that class; or

(*b*) in the case of a property described in subparagraph *b* of the second paragraph, the prescribed conditions.

History: 1999, c. 83, s. 163; 2004, c. 21, s. 244; 2011, c. 1, s. 49.

Amended fiscal return.

1000.3. If a partnership has deducted, in respect of a property described in the second paragraph, an amount in computing its income under paragraph *a* of section 130 or the second paragraph of section 130.1 for a particular fiscal period ending before all the conditions applicable to the property and set out in the third paragraph have been met, and, in a subsequent fiscal period, an event occurs that results in any of those conditions not being able to be met, each taxpayer who was a member of the partnership at the end of the particular fiscal period shall, on or before the taxpayer's filing-due date for the taxpayer's taxation year in which that subsequent fiscal period ends or would have ended had the taxpayer been a member of the partnership at the end of that subsequent fiscal period, file with the Minister for any taxation year that precedes that taxation year and for which the taxpayer's fiscal return was filed by the taxpayer under section 1000, and for which tax consequences under this Part arise from the fact that, in the case of a property described in subparagraph *a* of the second paragraph, the property cannot be included in the class provided for in that subparagraph or, in the case of a property described in subparagraph *b* of the second paragraph, the property does not meet all the conditions prescribed under subparagraph *b* of the third paragraph, an amended fiscal return in which those tax consequences must be taken into account.

Interpretation.

The property to which the first paragraph refers is

(*a*) a property in Class 12 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) because of subparagraph *t* of the first paragraph of that class or of the second or fourth paragraph of that class; or

(*b*) a prescribed property.

Conditions.

The conditions to which the first paragraph refers are

(*a*) in the case of a property described in subparagraph *a* of the second paragraph, the conditions of subparagraph *t* of the first paragraph of Class 12 of Schedule B to the Regulation

respecting the Taxation Act or of the second or fourth paragraph of that class; or

(b) in the case of a property described in subparagraph *b* of the second paragraph, the prescribed conditions.

History: 1999, c. 83, s. 163; 2004, c. 21, s. 245; 2011, c. 1, s. 49.

Demands for returns.

1001. Every person, whether or not the person is liable to pay tax and whether or not a fiscal return has been filed, shall, on demand from the Minister, file with the Minister in the prescribed form containing prescribed information a fiscal return for the taxation year within such time as may be designated in the demand.

History: 1972, c. 23, s. 733; 1973, c. 17, s. 114; 1973, c. 18, s. 27; 1975, c. 83, s. 84; 1997, c. 14, s. 290; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2000, c. 5, s. 234; 2015, c. 21, s. 358.

Interpretation Bulletins: IMP. 1045-1/R3.

Corresponding Federal Provision: 150(2).

Persons administering property of others.

1002. Every trustee in bankruptcy, assignee, liquidator, curator, receiver, agent or other person, including the public curator, administering, managing, winding-up or controlling in any manner the property, business, succession or income of a person who has not filed a fiscal return for a taxation year as required by this Title shall file such return for that year.

History: 1972, c. 23, s. 734; 1975, c. 22, s. 234; 1998, c. 16, s. 251; 2000, c. 5, s. 235; [2020, c. 11, s. 254 — the amendment provided by this section, which comes into force on the date or dates to be set by the Government, will be incorporated into the Act on that date: 2020, c. 11, s. 257].

Corresponding Federal Provision: 150(3).

Death of partner or proprietor.

1003. Where section 217.9.1 applies in computing an individual's income for a taxation year from a business, or where an individual who carries on a business in a taxation year dies in the year and after the end of a fiscal period of the business that ends in the year, another fiscal period of the business (in this section referred to as the "short period") ends in the year because of the individual's death, and the individual's legal representative elects that this section apply, the following rules apply:

(a) the individual's income from businesses for short periods, if any, shall not be included in computing the individual's income for the year; and

(b) the individual's legal representative shall file a separate fiscal return for the year under this Part in respect of the individual as if the return were filed in respect of another person and shall pay the tax payable under this Part by that other person for the year computed as if

i. the other person's only income for the year were the amount determined by the formula

$A - B$; and

ii. subject to sections 693.1, 752.0.26 and 776.1.5.0.19, that other person were entitled to the deductions to which the individual is entitled under sections 725 to 725.5, 752.0.0.1 to 752.0.13.3, 752.0.14 to 752.0.18.15, 776.1.5.0.17 and 776.1.5.0.18 for the year in computing the individual's taxable income or tax payable under this Part, as the case may be, for the year.

Interpretation.

In the formula provided for in subparagraph *i* of subparagraph *b* of the first paragraph,

(a) *A* is the aggregate of all amounts each of which is the individual's income from a business for a short period; and

(b) *B* is the aggregate of all amounts each of which is an amount included under section 217.9.1 in computing the individual's income for the taxation year in which the individual dies;

(c) *(subparagraph repealed)*.

History: 1972, c. 23, s. 735; 1986, c. 19, s. 184; 1989, c. 5, s. 196; 1993, c. 64, s. 128; 1994, c. 22, s. 314; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2000, c. 5, s. 236 [amended by 2001, c. 53, s. 388]; 2001, c. 53, s. 216; 2005, c. 1, s. 208; 2006, c. 36, s. 99; 2015, c. 24, s. 129; 2019, c. 14, s. 295.

Interpretation Bulletins: IMP. 1045-1/R3.

Corresponding Federal Provision: 150(4).

Exceptions.

1003.1. The corporation to which subsection 1 of section 1000 refers for a taxation year is

(a) a corporation that is a registered charity throughout the year; or

(b) a corporation referred to in the first paragraph of section 27 each taxable Québec property of which that is disposed of in the year is disposed of in an excluded disposition, within the meaning of section 1003.2.

History: 2009, c. 15, s. 183.

Corresponding Federal Provision: 150(1)(a)(i)(D).

Disposition excluded.

1003.2. For the purposes of paragraph *d* of subsection 1 of section 1000 and paragraph *b* of section 1003.1, a disposition of a property by a taxpayer at any time in a taxation year is an excluded disposition if

(a) the taxpayer is not resident in Canada at that time;

(b) no tax is payable under this Part by the taxpayer for the taxation year;

(c) the taxpayer is, at that time, not liable to pay an amount under this Act in respect of a previous taxation year (other than an amount for which the Minister has accepted, and holds, adequate security under Chapter IV.1 of Title III of this Part or under Title III of Part II); and

(d) each taxable Québec property disposed of by the taxpayer in the taxation year is

i. excluded property within the meaning of section 1102.4, or

ii. a property in respect of the disposition of which the Minister has issued to the taxpayer a certificate under any of sections 1098, 1100 and 1102.1.

History: 2009, c. 15, s. 183.

Corresponding Federal Provision: 150(5).

Estimate of tax payable.

1004. Every person required by this Title to file a fiscal return shall in the fiscal return estimate the amount of tax payable.

History: 1972, c. 23, s. 736; 1986, c. 19, s. 185; 1998, c. 16, s. 220; 2000, c. 5, s. 237.

Interpretation Bulletins: IMP. 1045-1/R3.

Corresponding Federal Provision: 151.

TITLE II ASSESSMENT

Examination and assessment by the Minister.

1005. The Minister shall, with dispatch, examine a taxpayer's fiscal return sent to him for a taxation year and assess, on the one hand, his tax payable for the year and the interest and penalties, if any, which are exigible and, on the other hand, any amount deemed to have been paid under Chapter III.1 of Title III as partial payment of his tax payable for the year pursuant to this Part.

History: 1972, c. 23, s. 737; 1991, c. 8, s. 71; 1992, c. 1, s. 158; 1993, c. 64, s. 129; 1997, c. 85, s. 234; 2000, c. 39, s. 118; 2001, c. 7, s. 139.

Corresponding Federal Provision: 152(1).

Determination of loss by Minister.

1006. Where the Minister determines the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year and the taxpayer did not report that amount as such loss in his fiscal return for that year in accordance with section 1000, he shall, at the request of the taxpayer, determine, with all due dispatch, the amount of such loss, and shall send a notice of determination to the person by whom the return was filed.

Rights of objection and appeal.

Such determination is binding on both the Minister and the taxpayer for the purposes of calculating the taxable income of the taxpayer in any other year, subject to the taxpayer's rights of objection, contestation and appeal in respect of the determination and subject to any redetermination by the Minister.

History: 1977, c. 26, s. 109; 1978, c. 26, s. 203; 1985, c. 25, s. 145; 1986, c. 19, s. 186; 1988, c. 4, s. 118; 1997, c. 3, s. 71; 2020, c. 12, s. 146.

Corresponding Federal Provision: 152(1.1) and (1.3).

Determination of relevant amounts.

1006.1. Where, by reason of section 1079.10, the Minister ascertains the tax consequences to a taxpayer with respect to a transaction, he shall, in the case of a determination pursuant to section 1079.16, or he may, in any other case, determine any amount that is relevant for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer. Where such a determination is made, the Minister shall send, with all due dispatch, a notice of determination to the taxpayer.

Determination binding on the Minister and the taxpayer.

The determination is binding on both the Minister and the taxpayer for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer for any taxation year, subject to the taxpayer's rights of objection, contestation and appeal in respect of the determination or subject to any redetermination by the Minister.

Exception.

Notwithstanding the first paragraph, no determination may be made by the Minister solely for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer for a preceding taxation year.

History: 1990, c. 59, s. 339; 2020, c. 12, s. 146.

Corresponding Federal Provision: 152(1.3), (1.11) and (1.12).

Determination of loss by the Minister.

1007. Paragraph *f* of section 312, paragraph *e* of section 336, the provisions of this Book and Chapters III.1 and III.2 of the Tax Administration Act (chapter A-6.002), as they relate to an assessment or reassessment and to a determination or redetermination of tax, apply, with the necessary modifications, to a determination or redetermination of an amount under this Book.

Exception.

However, sections 1005 and 1008 do not apply to determinations made under sections 1006 and 1006.1, and an original determination of a taxpayer's loss referred to in section 1006 for a taxation year may be made by the Minister only at the request of the taxpayer.

History: 1977, c. 26, s. 109; 1978, c. 26, s. 204; 1990, c. 59, s. 340; 1995, c. 63, s. 261; 1997, c. 85, s. 235; 1998, c. 16, s. 251; 2010, c. 31, s. 175.

Corresponding Federal Provision: 152(1.2).

Determination in respect of a partnership.

1007.1. The Minister may, within the time specified in the second paragraph, determine any income or loss of a partnership for a fiscal period of the partnership and any deduction or other amount, or any other matter, in respect of the partnership for the period that is relevant in determining the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, any member of the partnership for any taxation year under this Part.

Time limit.

The Minister may make a determination under the first paragraph within three years after the day that is the later of

(a) the day on or before which a member of a partnership is required under section 1086R78 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) to file an information return for the fiscal period; and

(b) the day on which the information return referred to in subparagraph *a* is filed.

History: 2000, c. 5, s. 238; 2009, c. 15, s. 184.

Corresponding Federal Provision: 152(1.4).

Notice of determination.

1007.2. Where a determination is made by the Minister under section 1007.1 in respect of a partnership for a fiscal period, the Minister shall send a notice of the determination to the partnership and to each person who was a member of the partnership during the fiscal period.

History: 2000, c. 5, s. 238.

Corresponding Federal Provision: 152(1.5).

Absence of notification.

1007.3. No determination made by the Minister under section 1007.1 in respect of a partnership for a fiscal period is invalid solely because one or more persons who were members of the partnership during the fiscal period did not receive a notice of the determination.

History: 2000, c. 5, s. 238.

Corresponding Federal Provision: 152(1.6).

Binding effect of determination.

1007.4. Where the Minister makes a determination under section 1007.1 or a redetermination in respect of a partnership, the following rules apply:

(a) subject to the rights of objection, contestation and appeal of the member of the partnership referred to in section 93.1.1.1 of the Tax Administration Act (chapter A-6.002) in respect of the determination or redetermination, as the case may be, the determination or redetermination is binding on the Minister and each member of the partnership for the purpose of calculating the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, the members for any taxation year under this Part; and

(b) despite section 1007 and sections 1010 to 1011, the Minister may, before the end of the day that is one year after the day on which all rights of objection, contestation and appeal expire or are determined in respect of the determination or redetermination, determine the tax, interest, penalties or other amounts payable and determine an amount deemed to have been paid or to have been an overpayment under this Part in respect of any member of the partnership and any other taxpayer for any taxation year as may be necessary to give effect to the determination or redetermination or a final judgment of the Court of Québec, the Court of Appeal or the Supreme Court of Canada.

History: 2000, c. 5, s. 238; 2010, c. 31, s. 175; 2011, c. 34, s. 61; 2020, c. 12, s. 146.

Corresponding Federal Provision: 152(1.7).

Time to assess.

1007.5. Where, as a result of representations made to the Minister that a person was a member of a partnership for a fiscal period of the partnership, a determination is made under section 1007.1 in respect of the fiscal period and the Minister or, as part of a final judgment, the Court of Québec, the Court of Appeal or the Supreme Court of Canada concludes at a subsequent time that the partnership did not exist for the fiscal period or that, throughout the fiscal period, the person was not a member of the partnership, the Minister may, notwithstanding sections 1007 and 1010 to 1011, within one year after that subsequent time, assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been an overpayment under this Part, by any taxpayer for any taxation year, but only to the extent that the assessment or determination can reasonably be regarded

(a) as relating to any matter that was relevant in the making of the determination made under section 1007.1;

(b) as resulting from the conclusion that the partnership did not exist for the fiscal period; or

(c) as resulting from the conclusion that the person was, throughout the fiscal period, not a member of the partnership.

History: 2000, c. 5, s. 238; 2010, c. 25, s. 108.

Corresponding Federal Provision: 152(1.8).

Waiver.

1007.6. A waiver in respect of the period during which the Minister may make a determination under section 1007.1 in respect of a partnership for a fiscal period may be made by one member of the partnership if that member is

(a) designated for that purpose in the information return filed under section 1086R78 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) for the fiscal period; or

(b) otherwise expressly authorized by the partnership to so act.

History: 2013, c. 10, s. 93.

Corresponding Federal Provision: 152(1.9).

Notice of assessment.

1008. After examination of a fiscal return, the Minister shall send a notice of assessment to the person by whom the fiscal return was filed.

History: 1972, c. 23, s. 738; 2000, c. 5, s. 239.

Corresponding Federal Provision: 152(2).

Incorrect or incomplete assessment.

1009. Liability for the tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

History: 1972, c. 23, s. 739.

Corresponding Federal Provision: 152(3).

Powers of Minister regarding assessment of tax, interest and penalties.

1010. (1) The Minister may at any time determine the tax, interest and penalties payable under this Part, or give notice in writing to any taxpayer who filed a fiscal return for a taxation year that no tax is payable for that taxation year.

Powers of Minister.

(2) The Minister may also 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 three years after the day of sending of an original assessment or of a notice that no tax is payable for a taxation year or the day on which a fiscal return for the taxation year is filed, whichever is later;

(a.0.1) within four years after the later 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;

(a.1) within six years after the later day referred to in paragraph *a* or, in the case of a taxpayer referred to in paragraph *a.0.1*, within seven years after that day, where

i. a redetermination of the taxpayer's tax by the Minister is required in accordance with section 1012 or 1012.2 or would have been required if the taxpayer had claimed an amount under that section within the prescribed time limit,

ii. as a consequence of a redetermination of another taxpayer's tax in accordance with this paragraph or section 1012, there is reason to redetermine the taxpayer's tax for any relevant taxation year,

iii. a redetermination of the taxpayer's tax would be made by the Minister, but for the expiration of the time limit prescribed in paragraph *a*, as a consequence of an additional payment of any income or profits tax to, or a reimbursement of any such tax by, the government of a foreign country or a political subdivision of a foreign country,

iv. a redetermination of the taxpayer's tax is required to be made as a consequence of a reduction under section 359.15 of an amount purported to be renounced by the corporation under any of the sections referred to in that section,

v. a redetermination of the taxpayer's tax is required to be made in order to give effect to the application of sections 752.0.10.10.1 and 752.0.10.18,

vi. a redetermination of the taxpayer's tax is required to be made as a consequence of a transaction involving the taxpayer and a person not resident in Canada with whom the taxpayer was not dealing at arm's length,

vii. a redetermination of the taxpayer's tax is required to be made, if the taxpayer is not resident in Canada and carries on a business in Canada, as a consequence of an allocation by the taxpayer of revenues or expenses as amounts in respect of the Canadian business, other than revenues or expenses that relate solely to the Canadian business, that are recorded in the books of account of the Canadian business, and the documentation in support of which is kept in Canada, or a notional transaction between the taxpayer and its Canadian banking business, where the transaction is recognized for the purposes of the computation of an amount under this Act or an applicable tax agreement; or

viii. a redetermination of the taxpayer's tax is required to give effect to the application of any of Chapters VI to VI.2 of Title X of Book III; and

(a.2) within three years after the day on which the information return described in section 1079.7 is filed, in relation to a claim or deduction made by the taxpayer in

respect of a tax shelter, if that information return is not filed in the manner and within the time specified; and

(b) at any time, if the taxpayer or the person who filed the return

i. has made a misrepresentation that is attributable to negligence or wilful default or has committed any fraud in filing the return or in supplying any information provided for in this Part, or

ii. has filed with the Minister a waiver in the prescribed form.

Powers of Minister.

(2.1) In addition, the Minister may redetermine the tax, interest and penalties payable by the taxpayer under this Part for a taxation year for which tax consequences under this Part result from the fact that a redetermination of the taxpayer's tax must be made by the Minister in accordance with section 1012, as a consequence of the application of paragraph *g* or *h* of section 1012.1, in relation to a taxation year referred to in the first or second paragraph of section 1012.1.1, and, despite paragraph *a.1* of subsection 2, make a reassessment or an additional assessment beyond the period referred to in that paragraph *a.1*.

Restriction.

(3) However, the Minister may, under paragraph *a.1* or *a.2* of subsection 2 or subsection 2.1, make a reassessment or an additional assessment beyond the periods referred to in paragraph *a* or *a.0.1* of subsection 2 only to the extent that the reassessment or additional assessment may be reasonably regarded as related to the tax redetermination referred to in that paragraph *a.1* or subsection 2.1, or to the claim or deduction referred to in that paragraph *a.2*, as the case may be.

History: 1972, c. 23, s. 740; 1982, c. 5, s. 179; 1985, c. 25, s. 146; 1986, c. 15, s. 171; 1990, c. 7, s. 144; 1990, c. 59, s. 341; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 86, s. 1; 2000, c. 5, s. 240; 2001, c. 7, s. 140; 2004, c. 4, s. 9; 2004, c. 8, s. 177; 2005, c. 23, s. 137; 2010, c. 25, s. 109; 2011, c. 34, s. 62; 2015, c. 24, s. 130; 2015, c. 36, s. 68; I.N. 2016-01-01 (NCCP).

Interpretation Bulletins: IMP. 1010-1/R2; IMP. 1010-2/R3; IMP. 1010-3/R2; IMP. 1010-4; IMP. 1051-2/R1.

Corresponding Federal Provision: 152(3), (3.1), (4) and (4.1).

Powers of the Minister relating to an amended fiscal return.

1010.0.0.1. Despite the expiry of the time limits provided for in section 1010, if a taxpayer has deducted, or is a member of a partnership that has deducted, in respect of a property described in the second paragraph, an amount in computing income under paragraph *a* of section 130 or the second paragraph of section 130.1 for a taxation year or a fiscal period, as the case may be, ending before all the

conditions applicable to the property and set out in the third paragraph have been met, and, in a subsequent taxation year or fiscal period, an event occurs that results in any of those conditions not being able to be met, the following rules apply:

(a) the Minister may, at any time, but for the amended fiscal return that the taxpayer is required to file under section 1000.2 or 1000.3, redetermine the tax, interest and penalties payable under this Part by the taxpayer for any taxation year for which tax consequences under this Part arise from the fact that, in the case of a property described in subparagraph *a* of the second paragraph, the property cannot be included in the class provided for in that subparagraph or, in the case of a property described in subparagraph *b* of the second paragraph, the property does not meet all the conditions prescribed for the purposes of subparagraph *b* of the third paragraph; and

(b) the Minister may also redetermine the tax, interest and penalties payable under this Part and make a reassessment or an additional assessment, as the case may be,

i. within three years after the later of the day of sending, pursuant to subparagraph *a*, of a notice of assessment for a taxation year or of a notice that no tax is payable for a taxation year and the day on which an amended fiscal return for the taxation year is filed pursuant to section 1000.2 or 1000.3, or

ii. within four years after the day referred to in subparagraph *i* 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.

Interpretation.

The property to which the first paragraph refers is

(a) a property in Class 12 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) because of subparagraph *t* of the first paragraph of that class or of the second or fourth paragraph of that class; or

(b) a prescribed property.

Conditions.

The conditions to which the first paragraph refers are

(a) in the case of a property described in subparagraph *a* of the second paragraph, the conditions of subparagraph *t* of the first paragraph of Class 12 of Schedule B to the Regulation respecting the Taxation Act or of the second or fourth paragraph of that class; or

(b) in the case of a property described in subparagraph *b* of the second paragraph, the prescribed conditions.

Restriction.

However, the Minister may, in respect of a taxation year for which tax consequences under this Part arise from the fact that the property cannot be so included in a class, make an assessment, a reassessment or an additional assessment beyond the periods referred to in paragraph *a* or *a.0.1* of subsection 2 of section 1010 only to the extent that the assessment, reassessment or additional assessment may reasonably be considered to relate to a tax consequence referred to in section 1000.2 or 1000.3.

History: 1999, c. 83, s. 164; 2004, c. 4, s. 10; 2004, c. 21, s. 246; 2011, c. 1, s. 50; I.N. 2016-01-01 (NCCP).

Consequential assessment.

1010.0.1. Notwithstanding the expiry of the time limits provided for in section 1010, where a reassessment must be made for a particular taxation year, the Minister may redetermine the tax, interest and penalties and make a reassessment for a subsequent taxation year, but only for the purpose of making an adjustment consequential upon the reassessment in respect of the particular taxation year.

Time limit.

Such a reassessment may or, where the taxpayer so requests in writing, shall be made on or before the day that is either one year after the day on which all rights of objection to the reassessment in respect of the particular taxation year expire or one year after the day a decision relating to the particular year is rendered following an objection, contestation or appeal.

History: 1994, c. 22, s. 315; 1996, c. 31, s. 2; 1997, c. 85, s. 236; 2000, c. 39, s. 119; 2020, c. 12, s. 148.

Corresponding Federal Provision: 152(4.3).

Reassessment of tax, interest and penalties.

1010.0.2. Notwithstanding the expiration of the time limits provided for in section 1010, where a taxpayer is the subject of an assessment or reassessment made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the Minister may, within one year after the date of that assessment, redetermine the tax, interest and penalties payable by the taxpayer and make a reassessment for the sole purpose of taking into account elements that may be considered to relate to that assessment or reassessment.

History: 1997, c. 86, s. 2; 1999, c. 83, s. 165 [amended by 2000, c. 39, s. 301].

Assessment by another province.

1010.0.3. Notwithstanding the expiration of the time limits provided for in section 1010, where a taxpayer is the subject of an assessment or reassessment by a province other than Québec under an Act that is similar to this Act, the Minister may, within one year after the date of that assessment, redetermine the tax, interest and penalties

payable by the taxpayer and make a reassessment for the sole purpose of taking into account elements that may be considered to relate to that assessment or reassessment.

History: 1999, c. 83, s. 166.

Reassessment relating to an averaging mechanism.

1010.0.4. Despite the expiration of the time limits provided for in section 1010, if section 766.2 or 1029.8.50 applied in respect of an individual for a particular taxation year, in relation to an eligible taxation year of the individual, the Minister may redetermine the tax, interest and penalties payable by the individual for the particular taxation year or the amount deemed to have been paid under section 1029.8.50 on account of the individual's tax payable for that particular year, as the case may be, and make a reassessment for that particular year for the sole purpose of taking into account elements that may be considered to relate to an assessment, reassessment or notice that no tax is payable in relation to that eligible taxation year.

History: 2005, c. 38, s. 231; 2010, c. 25, s. 110; I.N. 2016-01-01 (NCCP).

Time limit for reassessment or redetermination.

1010.1. Where the Minister would, but for this section, be entitled by virtue only of the filing of a waiver referred to in subparagraph ii of paragraph *b* of subsection 2 of section 1010, to redetermine the tax, interest or penalties payable under this Part, and to make a reassessment or an additional assessment, as the case may be, the Minister may not make such redetermination, reassessment or additional assessment after the day that is six months after the date on which a notice of revocation of the waiver is filed with the Minister in the prescribed form and in duplicate, by registered mail.

History: 1986, c. 15, s. 172; 1997, c. 3, s. 54; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2005, c. 23, s. 138; 2010, c. 31, s. 88; 2011, c. 34, s. 63.

Interpretation Bulletins: IMP. 1010-1/R2.

Corresponding Federal Provision: 152(4.1).

Limitation on assessments.

1011. For the purposes of paragraph *b* of subsection 2 of section 1010, the Minister shall not, in computing the income of a taxpayer upon a reassessment or additional assessment made after the expiry of the time limits provided for in paragraphs *a* to *a.2* of that subsection 2, include any amount other than an amount

(*a*) that can reasonably be regarded as having been the subject of a waiver referred to in subparagraph ii of paragraph *b* of subsection 2 of section 1010, unless the taxpayer establishes otherwise, or

(*b*) in respect of which the failure to include it in computing income resulted from misrepresentation attributable to negligence or wilful default or from fraud, on the part of the

taxpayer, in filing the fiscal return or in supplying information under this Part, unless the taxpayer establishes otherwise.

History: 1972, c. 23, s. 741; 1982, c. 5, s. 180; 1996, c. 31, s. 3; 2000, c. 5, s. 241; 2015, c. 24, s. 131.

Interpretation Bulletins: IMP. 1010-1/R2.

Corresponding Federal Provision: 152(5).

Redetermination.

1012. If a taxpayer has filed for a taxation year the fiscal return required by section 1000 and an amount referred to in section 1012.1 is subsequently included in computing the taxpayer's taxable income, claimed as a deduction or deemed to be paid under Chapter III.1 of Title III, as the case may be, by or on behalf of the taxpayer for the taxation year by filing with the Minister, on or before the taxpayer's filing-due date for the subsequent taxation year in respect of that amount, a prescribed form amending the fiscal return for the taxation year, the Minister shall, for any relevant taxation year, other than a taxation year preceding the taxation year, determine the amount deemed to be paid by the taxpayer or redetermine the taxpayer's tax or the amount deemed to be paid by the taxpayer, as the case may be, to take into account the amount so included in computing the taxpayer's taxable income, claimed as a deduction or deemed to be paid.

History: 1972, c. 23, s. 742; 1982, c. 5, s. 181; 1985, c. 25, s. 147; 1989, c. 5, s. 197; 1997, c. 31, s. 95; 2004, c. 21, s. 247; 2009, c. 15, s. 185.

Corresponding Federal Provision: 152(6) before (a) and after (b).

Computation of deduction.

1012.1. For the purposes of section 1012, the amount that may be included in computing the taxpayer's taxable income, claimed as a deduction or deemed to be paid under Chapter III.1 of Title III by or on behalf of the taxpayer for a taxation year is the amount that the taxpayer may include, deduct or be deemed to have paid, as the case may be, for that taxation year under or because of

(a) subparagraph iii of paragraph c of section 28 following the application, by reason of the taxpayer's death occurring during a subsequent taxation year, of section 452 in respect of a deductible capital loss for the taxation year;

(b) sections 265 to 269 in respect of a loss on precious property for a subsequent taxation year;

(b.1) paragraph h of section 312 in respect of a grant referred to therein;

(b.1.0.1) section 336.6 in respect of the unused portion of the total investment expense, within the meaning of section 336.5, for a subsequent taxation year;

(b.1.1) paragraph b of section 339 in respect of a premium, within the meaning of paragraph e of section 905.1, paid in a

subsequent taxation year under a registered retirement savings plan where the premium is deductible by reason of section 923.5;

(b.2) *(paragraph repealed)*;

(c) sections 752.0.10.1 to 752.0.10.14 in respect of a gift made during a subsequent taxation year;

(d) sections 727 to 737 in respect of a loss for a subsequent taxation year;

(d.1) sections 772.2 to 772.9.1 and 772.10 to 772.13 in respect of the unused portion of the foreign tax credit, within the meaning of section 772.2, or sections 772.9.2 to 772.9.4 in respect of foreign taxes paid, for a subsequent taxation year;

(d.1.0.0.1) section 776.1.9 in respect of the unused portion of the tax credit, within the meaning of section 776.1.7, for a subsequent taxation year;

(d.1.0.0.2) section 776.1.21 in respect of the unused portion of the tax credit, within the meaning of section 776.1.19, for a subsequent taxation year;

(d.1.0.0.3) section 776.1.29 in respect of the unused portion of the tax credit, within the meaning of section 776.1.27, for a subsequent taxation year;

(d.1.0.1) section 785.2.4 as a result of a disposition in a subsequent taxation year;

(d.1.0.2) the second paragraph of section 915.2, section 924.2, the second paragraph of section 961.17.1 or any of sections 961.21.0.1, 965.0.25 and 965.0.30, in respect of a registered retirement savings plan, a registered retirement income fund or a pooled registered pension plan, with the understanding that an amount claimed as a deduction includes, for the purposes of this section, a reduction of an amount otherwise required to be included in computing a taxpayer's income;

(d.1.1) section 965.0.3 because of the application of section 965.0.4.1 as a consequence of the taxpayer's death in the subsequent taxation year;

(d.1.1.1) section 1029.8.36.166.47 in respect of the unused portion of the tax credit, within the meaning of the first paragraph of section 1029.8.36.166.40, for a subsequent taxation year;

(d.1.2) section 1029.8.36.171.2 in respect of the unused portion of the refundable tax credit, within the meaning of section 1029.8.36.167, for a subsequent taxation year;

(d.2) *(paragraph repealed)*;

(e) *(paragraph repealed)*;

(f) subparagraph *a* or *b* of the first paragraph of section 1054 as a consequence of an election or specification, referred to in that subparagraph, made by the taxpayer's legal representative for a subsequent taxation year;

(g) the first paragraph of section 1055.1.2 as a consequence of an election referred to in subparagraph *a* of the second paragraph of that section and made by the taxpayer's legal representative for a subsequent taxation year; or

(h) the first paragraph of section 1055.1.3 as a consequence of an election referred to in subparagraph *a* of the second paragraph of that section and made by the taxpayer's legal representative for a subsequent taxation year.

History: 1985, c. 25, s. 147; 1986, c. 15, s. 173; 1987, c. 67, s. 182; 1988, c. 4, s. 119; 1989, c. 5, s. 198; 1990, c. 59, s. 342; 1991, c. 8, s. 72; 1991, c. 25, s. 165; 1993, c. 16, s. 326; 1993, c. 64, s. 130; 1995, c. 63, s. 113; 2000, c. 5, s. 242; 2004, c. 8, s. 178; 2004, c. 21, s. 248; 2005, c. 23, s. 139; 2005, c. 38, s. 232; 2007, c. 12, s. 99; 2009, c. 5, s. 420; 2009, c. 15, s. 186; 2010, c. 5, s. 131; 2011, c. 34, s. 64; 2015, c. 21, s. 359; 2015, c. 36, s. 69; 2017, c. 1, s. 262.

Corresponding Federal Provision: 152(6)(a) to (h).

Carry-over of a repayment of salary or a benefit by a succession.

1012.1.1. If section 1012 applies, in relation to a taxation year, in respect of a particular amount referred to in paragraph *g* or *h* of section 1012.1, it is to be read as if “for any relevant taxation year, other than a taxation year preceding the taxation year” was replaced by “for the taxation year”.

Carry-over of a loss attributable to the deemed repayment of salary.

If section 1012 applies, in relation to a particular taxation year, in respect of a particular amount referred to in paragraph *d* of section 1012.1 and the conditions of the third paragraph are met, it is to be read as follows:

“**1012.** If a taxpayer has filed for a particular taxation year the fiscal return required by section 1000 and a particular amount referred to in paragraph *d* of section 1012.1 is subsequently claimed as a deduction in computing the taxpayer's taxable income for the particular taxation year by filing with the Minister, on or before the filing-due date applicable to the taxpayer's succession for the subsequent taxation year in respect of any amount deducted because of paragraph *g* of section 1012.1 in computing income for the taxation year of the taxpayer's death, a prescribed form to amend the fiscal return for the particular taxation year, the Minister shall, for any relevant taxation year, other than a taxation year preceding the particular taxation year, redetermine the taxpayer's tax to take into account the amount so claimed as a deduction in computing the taxpayer's taxable income.”

Conditions.

The conditions to which the second paragraph refers are the following:

(a) the particular amount relates to a non-capital loss incurred in the taxation year in which the taxpayer died and does not exceed the portion of that loss that may reasonably be attributed to the deduction of any amount in computing the taxpayer's income for that year because of paragraph *g* of section 1012.1, as a consequence of an election made by the taxpayer's legal representative for the subsequent taxation year referred to in that paragraph; and

(b) on or before the filing-due date applicable to the taxpayer's succession for the subsequent taxation year in respect of the amount deducted because of paragraph *g* of section 1012.1 in computing the taxpayer's income for the taxation year in which the taxpayer died, the legal representative files with the Minister an amended fiscal return in the name of the taxpayer for the particular taxation year.

History: 2011, c. 34, s. 65.

Application.

1012.1.2. Where section 1012 does not apply to a corporation, in relation to a particular taxation year, in respect of a particular amount referred to in paragraph *d.1.0.0.2* of section 1012.1 relating to the unused portion of the tax credit, within the meaning of section 776.1.19, of the corporation for a subsequent taxation year but would apply to the corporation if it were read without reference to “, on or before the taxpayer's filing-due date for the subsequent taxation year in respect of that amount.”, section 1012 is, in relation to the particular taxation year and in respect of the particular amount, to be read as follows:

“**1012.** If a corporation has filed for a particular taxation year the fiscal return required by section 1000 and, in a subsequent taxation year, a particular amount referred to in paragraph *d.1.0.0.2* of section 1012.1, in respect of the unused portion of the tax credit, within the meaning of section 776.1.19, of the corporation for the subsequent taxation year is claimed as a deduction in computing the corporation's tax payable for the particular taxation year by filing with the Minister, on or before the corporation's filing-due date for the taxation year that includes the day on or before which it is required to file with the Minister the prescribed form containing prescribed information and any document issued by Investissement Québec for the purpose of determining the amount that the corporation is deemed to have paid to the Minister, in respect of the subsequent taxation year, under Division II.6.0.1.9 of Chapter III.1 of Title III, a prescribed form amending the fiscal return for the particular taxation year, the Minister shall, despite sections 1010 to 1011, for any relevant taxation year, other than a taxation year preceding the particular taxation year,

redetermine the corporation's tax to take into account the particular amount so claimed as a deduction.”.

History: 2015, c. 36, s. 70.

Corresponding Federal Provision: 152(6.1).

Application.

1012.1.3. Where section 1012 does not apply to a corporation, in relation to a particular taxation year, in respect of a particular amount referred to in paragraph *d.1.0.0.3* of section 1012.1 relating to the unused portion of the tax credit, within the meaning of section 776.1.27, of the corporation for a subsequent taxation year but would apply to the corporation if it were read without reference to “, on or before the taxpayer's filing-due date for the subsequent taxation year in respect of that amount,”, section 1012 is, in relation to the particular taxation year and in respect of the particular amount, to be read as follows:

1012. If a corporation has filed for a particular taxation year the fiscal return required by section 1000 and, in a subsequent taxation year, a particular amount referred to in paragraph *d.1.0.0.3* of section 1012.1, in respect of the unused portion of the tax credit, within the meaning of section 776.1.27, of the corporation for the subsequent taxation year is claimed as a deduction in computing the corporation's tax payable for the particular taxation year by filing with the Minister, on or before the corporation's filing-due date for the taxation year that includes the day referred to in the first paragraph of section 776.1.35 in relation to the subsequent taxation year, a prescribed form amending the fiscal return for the particular taxation year, the Minister shall, despite sections 1010 to 1011, for any relevant taxation year, other than a taxation year preceding the particular taxation year, redetermine the corporation's tax to take into account the particular amount so claimed as a deduction.”.

History: 2017, c. 1, s. 263.

Corresponding Federal Provision: 152(6.2).

Redetermination where foreign accrual property of a foreign affiliate is reduced.

1012.2. Where a taxpayer has filed for a particular taxation year the fiscal return required by section 1000 and the amount included in computing the taxpayer's income for the particular taxation year under section 580 is subsequently reduced because of a reduction described in the second paragraph, the Minister shall, if the taxpayer files with the Minister, on or before the filing-due date for the taxpayer's subsequent taxation year in respect of the reduction, a request in the prescribed form to amend the fiscal return for the particular taxation year, redetermine the taxpayer's tax for any relevant taxation year other than a taxation year preceding the particular taxation year in order to take into account the reduction in the amount included in computing the income of the taxpayer for the particular taxation year under section 580.

Reduction.

The reduction to which the first paragraph refers is the reduction in the foreign accrual property income of a foreign affiliate of the taxpayer for a taxation year (in this paragraph referred to as the “claim year”) of the foreign affiliate that ends in the particular taxation year, if

(a) the reduction is

i. attributable to the amount of the foreign accrual property loss (within the meaning assigned by subsection 3 of section 5903 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)) of the foreign affiliate for a taxation year of the foreign affiliate that ends in a subsequent taxation year of the taxpayer, and

ii. included in the value of F of the formula in the definition of “foreign accrual property income” in subsection 1 of section 95 of the Income Tax Act in relation to the foreign affiliate for the claim year; or

(b) the reduction is

i. attributable to the amount of the foreign accrual capital loss (within the meaning assigned by subsection 3 of section 5903.1 of the Income Tax Regulations made under the Income Tax Act) of the foreign affiliate for a taxation year of the foreign affiliate that ends in a subsequent taxation year of the taxpayer, and

ii. included in the value of F.1 of the formula in the definition of “foreign accrual property income” in subsection 1 of section 95 of the Income Tax Act in relation to the foreign affiliate for the claim year.

History: 2004, c. 8, s. 179; 2011, c. 34, s. 66; 2015, c. 21, s. 360 [amended by 2015, c. 36, s. 231].

Extended redetermination period.

1012.3. The Minister shall redetermine a taxpayer's tax for a particular taxation year, in order to take into account the application of paragraph *d* of the definition of “excluded property” in the first paragraph of section 851.22.1 or the application of section 851.22.23.6, in respect of property held by the taxpayer, if

(a) the taxpayer has filed for the particular taxation year the fiscal return required by section 1000; and

(b) the taxpayer files with the Minister a prescribed form amending the fiscal return, on or before the filing-due date for the taxpayer's taxation year that

i. if the filing is in respect of paragraph *d* of the definition of “excluded property” in the first paragraph of section 851.22.1, includes the acquisition of control time referred to in that paragraph, and

ii. if the filing is in respect of section 851.22.23.6, follows the particular taxation year.

History: 2010, c. 25, s. 111; 2011, c. 34, s. 67.

Duty of Minister.

1012.4. Where a corporation has filed for a particular taxation year the fiscal return required by section 1000, 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 for the particular taxation year, a document to be issued by Investissement Québec for the purpose of determining the amount that the corporation is so deemed to have paid to the Minister has been issued after the corporation's filing-due date in respect of the particular taxation year and a particular amount referred to in section 776.1.20 is claimed as a deduction in computing tax payable, by or on behalf of the corporation, for the particular taxation year by filing with the Minister, on or before the corporation's filing-due date for the taxation year that includes the day on or before which it was required to file with the Minister the prescribed form containing prescribed information and any document issued by Investissement Québec for the purpose of determining the amount that the corporation is deemed to have paid to the Minister for the particular taxation year, under that Division II.6.0.1.9, a prescribed form amending the fiscal return for the particular taxation year, the Minister shall, despite sections 1010 to 1011, redetermine the corporation's tax for the particular taxation year to take into account the particular amount so claimed as a deduction.

History: 2015, c. 36, s. 71.

Suspension of prescription following notification of a formal demand.

1012.5. Where a taxpayer has filed the fiscal return required by section 1000 for a taxation year and where a formal demand relating to an amount that may be owed by the taxpayer under this Act for the year has been notified in accordance with the first paragraph of section 39 of the Tax Administration Act (chapter A-6.002) to a person regarding the filing of information, additional information or documents, the time limit described in paragraph *a* or *a.0.1* of subsection 2 of section 1010 for redetermining the tax, interest and penalties payable by the taxpayer and for making a reassessment or an additional assessment, in respect of the taxation year concerned, is suspended for the period that begins on the day the formal demand is notified by registered mail or by personal service and ends on the day the formal demand or the order provided for in section 39.2 of the Tax Administration Act is complied with or, in case of contestation, the day on which a final judgement is rendered in relation to the formal demand or the order and on which, if applicable, the information, additional information or documents, as the case may be, are filed in accordance with the formal demand or the order.

History: 2019, c. 14, s. 296.

1013. (*Repealed*).

History: 1972, c. 23, s. 743; 1991, c. 67, s. 552.

Assessment deemed valid and binding.

1014. An assessment shall, subject to being varied or vacated on an objection, contestation or appeal and subject to a reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission in the assessment or in any proceeding relating thereto.

Assessment vacated.

However, where a court vacates an assessment on the ground that it has been issued beyond the period during which the Minister may reassess or make an additional assessment under any of paragraphs *a* to *a.2* of subsection 2 of section 1010, as the case may be, the assessment replaced by the assessment so vacated remains valid and binding, but any time prescribed by a fiscal law and applicable in regard thereto begins to run from the date of the judgment vacating the last assessment.

History: 1972, c. 23, s. 744; 1982, c. 5, s. 182; 1982, c. 38, s. 13; 1983, c. 47, s. 4; 1986, c. 15, s. 174; 1990, c. 7, s. 145; 1995, c. 63, s. 261; 1997, c. 85, s. 237; 2015, c. 24, s. 132; 2020, c. 12, s. 148.

Interpretation Bulletins: LAF. 95-1/R2 .

Corresponding Federal Provision: 152(8).

TITLE III

PAYMENT OF TAX

CHAPTER I

DEDUCTION OR WITHHOLDING

DIVISION I

GENERAL RULES

Withholding of tax.

1015. Every person who at any time during a taxation year pays, allocates, grants or awards an amount described in the second paragraph shall, even if the amount paid, allocated, granted or awarded results from a judgment, subject to sections 1015.0.0.1 to 1015.0.2, deduct or withhold from that amount the amount described in the third paragraph and pay to the Minister, on the dates, for the periods and according to terms and conditions prescribed, an amount equal to the deducted or withheld amount on account of the tax payable by the payee for the same taxation year.

Amounts from which tax must be withheld.

For the purposes of the first paragraph, the amounts referred to are the following amounts:

- (a) salary or wages or other remuneration;
- (b) an amount described in section 313.13 or 317;

- (c) a retiring allowance;
- (d) a death benefit;
- (e) an amount described in paragraph *c* of section 311;
- (e.0.1) an amount described in paragraph *c.1* of section 311;
- (e.1) an amount described in any of paragraphs *e.2* to *e.6* of section 311;
- (e.2) a benefit under a supplementary unemployment benefit plan;
- (e.3) an amount paid under the program referred to in paragraph *k.0.2* of section 311;
- (e.4) an amount paid under a program referred to in section 313.14;
- (f) an annuity payment or a payment in full or partial commutation of an annuity, other than a payment made under an income-averaging annuity contract respecting income from artistic activities;
- (g) fees, commissions or other amounts for services;
- (h) a payment under a deferred profit sharing plan or a plan referred to in section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a plan the registration of which has been revoked;
- (i) a benefit out of or under a registered retirement savings plan or a new plan referred to in section 914, or under such a plan;
- (j) *(subparagraph repealed)*;
- (k) an amount as proceeds of the surrender, cancellation or redemption of an income-averaging annuity contract;
- (l) a payment out of or under a registered retirement income fund or a fund referred to in section 961.9 as an “amended fund”;
- (m) a prescribed benefit under a government assistance program;
- (n) one or more amounts paid, allocated, granted or awarded to an individual who has elected for the year in prescribed manner in respect of all such amounts;
- (o) *(subparagraph repealed)*;
- (p) an amount described in paragraph *e* of section 1093;
- (q) an amount paid, allocated, granted or awarded as a distribution to one or more persons out of or under a retirement compensation arrangement;
- (r) a payment under a plan that is a registered education savings plan or that is such a plan solely for the purposes of sections 904 and 904.1;
- (s) a payment made in connection with the closing of a farm income stabilization account, pursuant to sections 45 and 46 of the Farm Income Stabilization Account program established under the Act respecting La Financière agricole du Québec (chapter L-0.1);
- (t) a payment from a registered disability savings plan;
- (u) an amount described in section 313.12.

Amount to be withheld.

For the purposes of the first paragraph and having regard to the regulations under this section, the amount to be deducted or withheld is equal

- (a) in cases where subparagraph *b* does not apply,
- i. to the amount determined in accordance with the tables drawn up by the Minister determining the amount to be deducted or withheld from an amount paid, allocated, granted or awarded or, where the amount to be deducted or withheld cannot be determined with those tables, to the amount computed in the prescribed manner, or
 - ii. to the amount determined according to a mathematical formula authorized by the Minister; and
- (b) in the cases described in sections 1015R11, 1015R12 and 1015R15 to 1015R29 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), to the prescribed amount.

Authorization.

Where the Minister considers that the aggregate of the amounts a person referred to in the first paragraph is required to pay under this section, under sections 34 and 37.21 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), if section 37.21 of that Act refers to this section, under section 63 of the Act respecting the Québec Pension Plan (chapter R-9) and under section 62 of the Act respecting parental insurance (chapter A-29.011), for a particular calendar year or for the calendar year prior to that particular year, does not exceed \$2,400, the Minister may authorize the person, in respect of an amount referred to in the first paragraph and equal to an amount deducted or withheld in respect of remuneration paid by that person during that particular year, to pay that amount on or before the day on which the person would be required, but for this paragraph, to make the last payment required by this section in respect of that remuneration.

Validity.

The authorization referred to in the fourth paragraph is valid for the calendar year in respect of which it is given and,

except where the Minister sends to the person a notice of change in the frequency of payment, for any subsequent calendar year.

Authorization.

Where the Minister considers that the average monthly withholding, within the meaning of the regulations made under this section, of a person referred to in the first paragraph, for the calendar year preceding a particular calendar year or for the second calendar year preceding that particular calendar year, does not exceed \$3,000 and the person meets the conditions determined by the Minister, the Minister may authorize the person, in relation to an amount referred to in the first paragraph and equal to an amount deducted or withheld in respect of remuneration paid by that person in a month in the particular calendar year, to pay that amount on the dates, for the periods and according to the terms and conditions prescribed.

Validity.

The authorization referred to in the sixth paragraph is valid from the first month in respect of which it is given to the end of

(a) the month in which the Minister sends to the person a notice of change in the frequency of payment, where that notice results from the fact that the person no longer meets one of the conditions determined by the Minister; and

(b) the month preceding the month from which a notice of change in the frequency of payment that the Minister sends to the person takes effect, in any other case.

Quarterly remittances — new employer.

If a person referred to in the first paragraph is a new employer throughout a particular month in a calendar year, that person may elect, in the prescribed form containing prescribed information, to pay an amount referred to in the first paragraph and equal to an amount deducted or withheld in respect of remuneration paid by that person in the particular month, on the dates, for the periods and according to the terms and conditions prescribed.

New employer.

For the purposes of the eighth paragraph, a person is deemed

(a) to become a new employer at the beginning of any month beginning after 31 December 2015 in which the person first becomes an employer; and

(b) to cease to be a new employer at a prescribed time in a calendar year if, in a particular month of the calendar year,

i. the monthly withholding amount, within the meaning of the regulations made under this section, to be carried out by the person for the particular month is not less than \$1,000, or

ii. the Minister sends to the person, in the particular month, a notice of change in the frequency of payment as a result of the fact that the person no longer meets one of the conditions determined by the Minister.

Source deduction tables.

The tables determining the amount to be deducted or withheld from a particular amount that is paid, allocated, granted or awarded in a taxation year are posted on the Revenu Québec website. The amount specified in the tables includes the amount to be deducted or withheld from the particular amount because of section 37.21 of the Act respecting the Régie de l'assurance maladie du Québec, if that section refers to this section.

Notice of coming into force.

The Minister shall publish in the *Gazette officielle du Québec* a notice of the date of coming into force of the tables and the address of the website on which they are posted.

History: 1972, c. 23, s. 745; 1972, c. 26, s. 69; 1977, c. 26, s. 110; 1979, c. 18, s. 70; 1980, c. 13, s. 103; 1982, c. 17, s. 54; 1984, c. 15, s. 231; 1985, c. 25, s. 148; 1986, c. 19, s. 187; 1988, c. 4, s. 120; 1989, c. 77, s. 98; 1991, c. 8, s. 73; 1991, c. 25, s. 166; 1993, c. 16, s. 327; 1995, c. 1, s. 110; 1995, c. 49, s. 228; 1995, c. 63, s. 114; 1997, c. 14, s. 290; 1997, c. 31, s. 96; 1999, c. 65, s. 20; 1999, c. 89, s. 53; O.C. 149-2000; 2000, c. 5, s. 243; 2001, c. 9, s. 127; O.C. 984-2005; 2001, c. 51, s. 84; 2002, c. 40, s. 97; 2003, c. 9, s. 162; 2004, c. 21, s. 249; 2005, c. 23, s. 140; 2005, c. 38, s. 233; 2007, c. 12, s. 100; 2009, c. 15, s. 187; 2010, c. 5, s. 132; 2011, c. 6, s. 183; 2012, c. 8, s. 173; 2015, c. 21, s. 361; 2015, c. 36, s. 72; 2017, c. 1, s. 264; [Source deductions tables for 2020: Notice, (2020) 49 G.O. 2, 3223].

Amount received by a volunteer firefighter or a search and rescue volunteer.

1015.0.0.1. For the purposes of subparagraph *a* of the second paragraph of section 1015 in respect of an amount received or enjoyed by an individual for the performance of duties as a volunteer firefighter or a volunteer assisting in the search and rescue of individuals or in other emergency operations, section 39.6 is to be read without reference to its second paragraph.

History: 2012, c. 8, s. 174; 2015, c. 24, s. 133.

No deduction required.

1015.0.1. No amount shall be deducted or withheld under section 1015 in respect of the remuneration, for a period referred to in that section or part of such a period of a taxation year, that an individual receives from employment, to the extent that the remuneration is attributable to an amount that may be deducted in computing the individual's taxable income for the year under any of sections 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, 737.22.0.13 and 737.28 or that

could be deducted under that section if the individual's taxable income were determined under this Part, where,

(a) the certificate referred to in the definition of “foreign researcher” in section 737.19 has been issued in respect of the individual in relation to the individual's employment with an eligible employer, within the meaning of that section, and the certificate is valid for that period or part of the period;

(b) the certificate referred to in paragraph *d* of the definition of “foreign researcher on a postdoctoral internship” in the first paragraph of section 737.22.0.0.1 has been issued in respect of the individual in relation to the individual's employment with an eligible employer, within the meaning of that paragraph, and the certificate is valid for that period or part of the period;

(c) the certificate referred to in the definition of “foreign expert” in section 737.22.0.0.5 has been issued in respect of the individual in relation to the individual's employment with an eligible employer, within the meaning of that section, and the certificate is valid for that period or part of the period;

(d) the certificate referred to in paragraph *d* of the definition of “foreign specialist” in the first paragraph of section 737.22.0.1 has been issued in respect of the individual in relation to the individual's employment with an eligible employer, within the meaning of that paragraph, and the certificate is valid for that period or part of the period;

(d.1) the qualification certificate referred in section 7.3 of Schedule E to the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) has been issued in respect of the individual in relation to the individual's employment with an eligible employer, within the meaning of the first paragraph of section 737.22.0.4.1, and the qualification certificate is valid for that period or part of the period;

(e) the certificate referred to in paragraph *d* of the definition of “foreign professor” in the first paragraph of section 737.22.0.5 has been issued in respect of the individual in relation to the individual's employment with an eligible employer, within the meaning of that paragraph, and the certificate is valid for that period or part of the period;

(f) the certificate referred to in the definition of “eligible seaman” in section 737.27 has been issued in respect of the individual in relation to the individual's employment with an eligible shipowner, within the meaning of that section, and the certificate is valid for that period or part of the period; or

(g) the work permit referred to in the definition of “foreign farm worker” in section 737.22.0.12 has been issued to the individual within the framework of a recognized federal program, within the meaning of that section, and the permit is valid for that period or part of the period.

Restriction.

The first paragraph applies only if it may reasonably be considered that the conditions relating to the employment of an individual referred to in any of subparagraphs *a* to *f* of that paragraph, on the basis of which the certificate was issued, remain essentially the same for the period or part of the period.

History: 2002, c. 40, s. 98; 2003, c. 9, s. 163; 2004, c. 21, s. 250; 2006, c. 36, s. 100; 2013, c. 10, s. 94.

No deduction required.

1015.0.2. No amount shall be deducted or withheld under section 1015 in respect of an amount paid, allocated, granted or awarded for services rendered or to be rendered in Québec, for a period referred to in that section or part of such a period of a taxation year, to an individual, to the extent that the amount is attributable to an amount that may be deducted in computing the individual's taxable income for the year or a preceding taxation year under section 737.22.0.10 or could deduct under that section if the individual's taxable income had been determined under this Part, where the certificate referred to in the definition of “eligible individual” in section 737.22.0.9 was issued to the individual in relation to an eligible production, within the meaning of that section, and the certificate is valid for that period or part of the period.

History: 2003, c. 9, s. 164.

Withholding in respect of benefits deemed received.

1015.0.3. For the purposes of subparagraph *a* of the second paragraph of section 1015, an amount that is deemed to have been received by a taxpayer as a benefit under or because of section 49 or any of sections 50 to 52.0.1 is remuneration paid as a bonus, except the portion of the amount that is

(a) deductible by the taxpayer under section 725.2 in computing the taxpayer's taxable income for a taxation year;

(b) deemed to have been received in a taxation year as a benefit because of a disposition of securities to which section 49.2 applies; or

(c) determined under subparagraph *b* of the first paragraph of section 725.2.3 to be deductible by the taxpayer under section 725.2.2 in computing the taxpayer's taxable income for a taxation year.

History: 2011, c. 34, s. 68.

Corresponding Federal Provision: 153(1.01).

1015.1. (Repealed).

History: 1982, c. 5, s. 183; 1995, c. 1, s. 111; 1997, c. 31, s. 97.

1015.2. *(Repealed).*

History: 1983, c. 43, s. 5 [In force (in part): 1983, c. 43, s. 17]; 1997, c. 85, s. 239.

Return.

1015.3. Every person to whom another person pays, in a taxation year, remuneration, within the meaning of the regulations made under section 1015, shall furnish the other person with a return in the form and within the time prescribed in section 1015.4.

Failure to file a return.

Where a person fails to furnish the return referred to in the first paragraph, the deduction or withholding must be made in respect of the person as though the person were entitled to deduct, in computing the person's tax payable for the year, only the amount obtained by multiplying,

(a) where the deduction or withholding is made in respect of remuneration paid in the year 2017, \$11,635 by 20%; or

(b) where the deduction or withholding is made in respect of remuneration paid in a year subsequent to the year 2017, \$14,890 by the percentage determined under section 750.1 for the year.

Annual adjustment.

The amount of \$14,890 to which subparagraph *b* of the second paragraph refers and that is to be used for a taxation year subsequent to the year 2017, is to be adjusted annually in such a manner that the amount used for that taxation year is equal to the total of the amount used for the preceding taxation year and the product obtained by multiplying that amount so used by the factor determined by the formula

$$(A / B) - 1.$$

Interpretation.

In the formula provided for in the third paragraph,

(a) A is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year preceding that for which an amount is to be adjusted; and

(b) B is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year immediately before the year preceding that for which the amount is to be adjusted.

Factor rounded up.

If the factor determined by the formula in the third paragraph has more than four decimal places, only the first four decimal

digits are retained and the fourth is increased by one unit if the fifth is greater than 4.

Rounding.

Where the amount that results from the adjustment provided for in the third paragraph is not a multiple of \$1, it must be rounded to the nearest multiple of \$1 or, if it is equidistant from two such multiples, to the higher multiple.

Determination of the adjusted amount for the taxation year 2018.

Where the amount of \$14,890, to which subparagraph *b* of the second paragraph refers, is to be used for the taxation year 2018, the amount is deemed, for the purposes of the third paragraph, to be the amount used for the taxation year 2017.

History: 1995, c. 63, s. 115; 1997, c. 85, s. 240; 2002, c. 9, s. 42; 2003, c. 9, s. 165; 2004, c. 21, s. 251; 2005, c. 1, s. 209; 2009, c. 5, s. 421; 2009, c. 15, s. 188; 2017, c. 29, s. 171; 2020, c. 5, s. 214.

Corresponding Federal Provision: 227(2).

Return.

1015.4. The person referred to in the first paragraph of section 1015.3 shall furnish the other person referred to in that paragraph with a return in the prescribed form containing the prescribed information within the following time:

(a) the person's employment starting date where the other person is the person's employer; and

(b) before remuneration is paid for the first time where the other person is not the person's employer.

New return.

The person referred to in the first paragraph of section 1015.3 shall furnish the other person referred to in that paragraph with a new return in the prescribed form containing the prescribed information within 15 days after an event that results in the reduction of the amount of the person's deductions or personal tax credits, according to the information indicated in the last return furnished to the other person.

Other cases.

Notwithstanding the first and second paragraphs, the person referred to in the first paragraph of section 1015.3 may, at any time, furnish the other person referred to in that paragraph with a return or a new return in the prescribed form containing the prescribed information.

History: 2003, c. 9, s. 166.

1015.5. *(Repealed).*

History: 2004, c. 21, s. 252; 2005, c. 1, s. 210.

Determination of lesser amount.

1016. Where the Minister is satisfied that the deduction or withholding of the amount provided for in the third paragraph of section 1015 would impose undue hardship on the taxpayer, the Minister may determine a lesser amount and that amount shall be deemed to be the amount that is required to be deducted or withheld under that section.

History: 1973, c. 18, s. 28; 1995, c. 18, s. 92; 1997, c. 85, s. 241; 2000, c. 5, s. 244; 2001, c. 51, s. 85.

Interpretation Bulletins: ADM. 7-1.

Corresponding Federal Provision: 153(1.1).

Increase of the amount to be deducted or withheld.

1017. A taxpayer may elect, in prescribed form and prescribed manner, that the amount deducted or withheld in the taxpayer's respect under section 1015 be increased by the amount specified by the taxpayer in the election, and that increased amount shall be deemed to be the amount that is required to be deducted or withheld under that section.

History: 1973, c. 18, s. 28; 2001, c. 51, s. 86.

Corresponding Federal Provision: 153(1.2).

Splitting of retirement income.

1017.1. A joint election made or expected to be made under Chapter II.1 of Title VI of Book III is not to be considered grounds on which the Minister may determine a lesser amount under section 1016.

History: 2009, c. 5, s. 422.

Corresponding Federal Provision: 153(1.3).

Tax deemed withheld.

1017.2. If a transferor and a transferee, within the meaning assigned to those expressions by the first paragraph of section 336.8, make a joint election under Chapter II.1 of Title VI of Book III in respect of a split-retirement income amount for a taxation year, determined in their respect for the purposes of that chapter, the portion of the amount deducted or withheld under section 1015 that may reasonably be considered to be attributable to the split-retirement income amount is deemed to have been deducted or withheld on account of the transferee's tax payable for the year under this Part and not on account of the transferor's tax payable for the year under this Part.

History: 2009, c. 5, s. 422.

Corresponding Federal Provision: 153(2).

Non-cash benefit.

1017.3. An amount deemed to have been received as a benefit under or because of section 49 or any of sections 50 to 52.0.1 must not be considered a basis on which the Minister may determine a lesser amount under section 1016 solely because it is received as a non-cash benefit.

History: 2011, c. 34, s. 69.

Corresponding Federal Provision: 153(1.31).

1018. *(Repealed).*

History: 1972, c. 23, s. 746; 1993, c. 16, s. 328; 1995, c. 1, s. 112.

Unclaimed dividends, interest and proceeds.

1019. Where, at the end of a taxpayer's taxation year, the person beneficially entitled to an amount received by the taxpayer after 1984 and before the taxation year as dividends, interest or proceeds of disposition of property is unknown to the taxpayer, the taxpayer shall pay to the Minister, on or before the sixtieth day after the end of the taxation year, on account of the tax payable by that person, an amount equal to 15% of the amount received as dividends or interest and 15% of the amount, if any, by which the proceeds of disposition of property exceed the aggregate of any expenses made or incurred by the taxpayer for the purpose of disposing of the property, to the extent that such expenses were not deducted in computing the taxpayer's income for any taxation year or attributable to any other property.

History: 1972, c. 23, s. 747; 1989, c. 77, s. 99.

Corresponding Federal Provision: 153(4)(a) to (c).

Exception.

1019.1. No payment under section 1019 shall be required in respect of an amount that was included in computing the taxpayer's income contemplated in the said section for the year or a preceding taxation year or in respect of an amount on which the tax contemplated in the said section 1019 was previously paid.

History: 1989, c. 77, s. 99.

Corresponding Federal Provision: 153(4) after (c).

Presumption.

1019.2. An amount paid by a taxpayer under section 1019 in respect of dividends, interest or proceeds of disposition of property is deemed to have been received by the person beneficially entitled thereto and to have been deducted or withheld from the amount otherwise payable by the taxpayer to that person.

History: 1989, c. 77, s. 99.

Corresponding Federal Provision: 153(5).

**DIVISION II
RULES RELATING TO TIPS****Definitions:**

1019.3. In this division,

“regulated establishment”;

“regulated establishment” has the meaning assigned by section 42.6;

“tippable sale”.

“tippable sale” has the meaning assigned by section 42.6.

History: 1997, c. 85, s. 242.

Tip reporting.

1019.4. If an employee receives or benefits from tips and performs employment duties for a regulated establishment, the employee shall report in writing to the employer, at the end of each pay period, the amount by which the amount of tips the employee received or benefited from exceeds the amount of tips remitted to or for the benefit of another employee under a tip-sharing arrangement implemented for the employees performing employment duties for the regulated establishment, to the extent that that amount is included in the amount of the tips the employee received or benefited from.

Exception.

The first paragraph does not apply in respect of the amount of the tips the employee received or benefited from during the pay period referred to therein, in respect of the performance of employment duties for the regulated establishment referred to therein, and that constitute service charges added to the customer's bill.

History: 1997, c. 85, s. 242; 2009, c. 5, s. 423.

Time at which a tip is deemed received.

1019.5. For the purposes of section 1019.4, where a tip in respect of a sale is not received in the pay period during which the sale is made or in the pay periods referred to in paragraphs *a* and *b*, the tip is deemed to be received in one of the pay periods referred to in those paragraphs and not to be received at the time it is actually received:

(*a*) subject to paragraph *b*, the tip is deemed to be received in the pay period during which the obligations relating to that sale are fully fulfilled; and

(*b*) in the case where the funds representing the proceeds of a sale in a regulated establishment, in respect of which a tip was paid, are not received by the operator of the regulated establishment before the end of the pay period referred to in paragraph *a*, in respect of that sale, and where remittance of the tip attributable to that sale to the employee in respect of whom the sale is attributable is deferred to a time after that pay period, the tip is deemed to be received in the pay period during which the funds are received by the operator of the regulated establishment.

History: 1997, c. 85, s. 242.

Source deductions.

1019.6. An amount may be deducted or withheld under section 1015 by an employer from remuneration paid to an employee who performs employment duties for a regulated establishment only to the extent that it does not reduce any amount that, but for that section 1015, would have been deducted or withheld from that remuneration under section 153 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), without reference

to subsection 1.2 of that section, under section 82 of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), under section 59 of the Act respecting the Québec Pension Plan (chapter R-9), under section 60 of the Act respecting parental insurance (chapter A-29.011), or as dues referred to in paragraph *b* or *c* of section 752.0.18.3.

History: 1997, c. 85, s. 242; 2001, c. 9, s. 128; O.C. 984-2005.

Presumptions.

1019.7. For the purposes of section 1015, the following rules apply:

(*a*) whoever employs an individual referred to in section 42.11 is deemed to pay to that individual as remuneration any tip to be attributed to the individual by the employer under that section 42.11, at the time the attribution is to be made under that section; and

(*b*) where an employee reports under section 1019.4 to the employer, in respect of a pay period, an amount relating to tips the employee received or benefited from in that pay period, the employer is deemed to pay to the employee an amount of remuneration equal to the amount so reported and to have paid that amount of remuneration at the time referred to in the second paragraph.

Time at which remuneration is deemed paid.

For the purposes of subparagraph *b* of the first paragraph, the employer referred to therein is deemed to pay the amount of remuneration referred to therein at the time the employer pays to the employee the salary or wages for the pay period referred to therein or, where, having regard to the information available at that time and the time required to determine the amount that is to be deducted or withheld from that amount of remuneration under section 1015, it may reasonably be considered that the employer cannot at that time determine the amount to be so deducted or withheld from that amount of remuneration owing to the fact that payment of the salary or wages for that pay period follows too closely the end of that pay period, at the time the employer pays to the employee the salary or wages for the pay period immediately following that pay period.

History: 1997, c. 85, s. 242.

CHAPTER II ADJUSTMENT PAYMENTS

Adjustment payments by Minister.

1020. (*I*) The Minister may, with the authorization of the Government, make an adjustment payment to the government of another province or of Canada, where, for a taxation year, such government is authorized to remit to Québec amounts deducted or withheld under the laws of such other province or of Canada, and such remittance is, in the opinion of the Minister, equivalent to an adjustment payment.

Agreements respecting adjustment payments.

(2) The Minister may also, with the same authorization, sign with the government of that other province or of Canada any agreement deemed necessary for the application of this section.

History: 1972, c. 23, s. 748.

Corresponding Federal Provision: 154(1) and (2) in fine.

Aggregate of adjustment payments.

1021. The aggregate of the adjustment payments is equal to the aggregate of the amounts deducted or withheld under subsection 1 of section 1020, during a taxation year, from the sums due to individuals who, on the last day of that year, resided in another province mentioned in section 1020; the Minister shall determine the portion of the amount deducted or withheld under section 1020 which is paid to the government of another province and that which is paid to the government of Canada, as an adjustment payment.

History: 1972, c. 23, s. 749.

Corresponding Federal Provision: 154(2).

Deduction of tax withheld by another province.

1022. An individual resident in Québec on the last day of a taxation year may deduct from his tax payable for such year the tax deductions or withholdings made by the government of another province mentioned in section 1020 and that part of the tax deductions or withholdings made by the government of Canada which is transferred to Québec as a payment equivalent to an adjustment payment.

History: 1972, c. 23, s. 750.

Corresponding Federal Provision: 154(3).

Withholding of tax in respect of individual not resident in Québec.

1023. An individual who, on the last day of a taxation year, resided in another province mentioned in section 1020 and in respect of whom tax deductions or withholdings were made in Québec shall not claim the refund of the amounts so deducted or withheld or apply the amount thereof to the payment of what he may owe to Québec.

History: 1972, c. 23, s. 751.

Corresponding Federal Provision: 154(4).

"adjustment payment" and "amount deducted or withheld".

1024. For the purposes of sections 1020 to 1023, the expression "adjustment payment" means a payment made by Québec to the government of another province or of Canada in respect of any tax deduction or withholding made in Québec on an amount paid to a person not resident in Québec on the last day of the taxation year and the expression "amount deducted or withheld" does not include an amount which has been refunded to the individual.

History: 1972, c. 23, s. 752.

Corresponding Federal Provision: 154(5).

**CHAPTER III
PAYMENTS****DIVISION I
INDIVIDUALS****Farmers and fishermen.**

1025. Subject to section 1026.1, every individual whose chief source of income for a taxation year is farming or fishing shall pay to the Minister for the year, on or before 31 December in the year, an amount equal to 2/3 of his tax for the year estimated in accordance with section 1004 or of his basic provisional account, established in prescribed manner, for the preceding taxation year.

History: 1972, c. 23, s. 753; 1972, c. 26, s. 70; 1977, c. 26, s. 111; 1983, c. 49, s. 13; 1984, c. 15, s. 232; 1986, c. 15, s. 175; 1988, c. 4, s. 121; 1993, c. 16, s. 329; 1993, c. 64, s. 131; 1995, c. 1, s. 113.

Corresponding Federal Provision: 155(1).

Other individuals.

1026. Subject to section 1026.1, every individual not contemplated in section 1025 shall pay to the Minister for each taxation year

(a) on or before 15 March, 15 June, 15 September and 15 December in the year, an amount equal to one-quarter of his tax for the year estimated in accordance with section 1004, or of his basic provisional account, established in the prescribed manner for the preceding taxation year, or

(b) on or before

i. 15 March and 15 June in the year, an amount equal to one-quarter of his basic provisional account, established in the prescribed manner for the second preceding taxation year, and

ii. 15 September and 15 December in the year, an amount equal to one-half of the amount by which his basic provisional account, established in the prescribed manner, for the preceding taxation year, exceeds one-half of his basic provisional account, established in the prescribed manner, for the second preceding taxation year.

History: 1972, c. 23, s. 754; 1972, c. 26, s. 71; 1977, c. 26, s. 112; 1978, c. 26, s. 205; 1983, c. 44, s. 38; 1983, c. 49, s. 14; 1986, c. 15, s. 176; 1988, c. 4, s. 122; 1990, c. 59, s. 343; 1993, c. 16, s. 330; 1993, c. 64, s. 132; 1995, c. 1, s. 114.

Corresponding Federal Provision: 156(1).

Payment of remainder.

1026.01. Every individual shall, on or before the individual's balance-due day for the year, pay to the Minister for each taxation year the amount by which the individual's tax payable for the year under this Part exceeds the aggregate of all amounts deducted or withheld under section 1015 in respect of his income for the year and of all other amounts

paid or deemed to be paid to the Minister on or before that date as partial payment of the individual's tax payable under this Part for the year.

History: 1995, c. 1, s. 115; 1997, c. 31, s. 98; 2010, c. 5, s. 133.

Corresponding Federal Provision: 156.1(4).

Definitions:

1026.0.2. In section 1026.1,

“instalment threshold”;

“instalment threshold” of an individual for a taxation year means an amount equal to \$1,800;

“net tax owing”;

“net tax owing” by an individual for a taxation year means the amount by which the amount described in the second paragraph is exceeded by the tax payable by the individual for the year under this Part and Parts III.15 and III.15.2, 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.

Amount referred to.

The amount to which the definition of “net tax owing” in the first paragraph refers corresponds to the aggregate of all amounts deducted or withheld under section 1015, but without reference to section 1017.2, in respect of the individual's income for the year and all amounts the individual is deemed, under Chapter III.1, to have paid to the Minister on account of the individual's tax payable under this Part for the year.

History: 1995, c. 1, s. 115; 1997, c. 85, s. 243; 1998, c. 16, s. 221; 2000, c. 5, s. 245; 2009, c. 5, s. 424; 2009, c. 15, s. 189; 2015, c. 21, s. 362; 2015, c. 36, s. 73.

Corresponding Federal Provision: 156.1(1) “net tax owing” and “instalment threshold”.

No instalment required.

1026.1. Sections 1025 and 1026 do not apply to an individual for a particular taxation year where

(a) the individual's chief source of income for the particular year is farming or fishing and the individual's net tax owing for the particular year, or for either of the two preceding taxation years, does not exceed the individual's instalment threshold for that year;

(b) the individual's net tax owing for the particular year, or for each of the two preceding taxation years, does not exceed the individual's instalment threshold for that year; or

(c) the individual is, for the particular year, a succession that is a graduated rate estate.

Payments by SIFT trusts.

Sections 1026 and 1026.0.1 do not apply to a SIFT trust.

History: 1983, c. 49, s. 15; 1986, c. 15, s. 177; 1993, c. 64, s. 133; 1995, c. 1, s. 116; 2017, c. 1, s. 265 [amended by 2019, c. 14, s. 614].

Corresponding Federal Provision: 156.1(2).

Deceased individual.

1026.2. Where an individual has died in a taxation year, sections 1025 and 1026 shall not require the payment of any amount in respect of the individual that would otherwise become due under either of the said sections on or after the day on which the individual died.

History: 1993, c. 16, s. 331; 1993, c. 64, s. 134; 1995, c. 1, s. 117.

Corresponding Federal Provision: 156.1(3).

Provisions relating to retirement income splitting.

1026.3. For the purposes of sections 1025 and 1026, the individual's tax for the year estimated in accordance with section 1004 is to be determined without reference to 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.

History: 2009, c. 5, s. 425; 2015, c. 36, s. 74.

DIVISION II CORPORATIONS

Amounts payable.

1027. Subject to section 1027.0.3, every corporation subject to taxation under this Part shall pay to the Minister

(a) the amounts determined in accordance with any of the following methods:

i. on or before the last day of each month of the current taxation year an amount equal to 1/12 of its tax for the year estimated in accordance with section 1004 or of its first basic provisional account, established in prescribed manner, for the year,

ii. on or before the last day of each of the first two months of the current taxation year, an amount equal to 1/12 of its second basic provisional account, established in prescribed manner, for the year and, on or before the last day of each of the following months of the year, an amount equal to 1/10 of the excess of its first basic provisional account contemplated in subparagraph i over the amount computed in respect of the first two months of the year, or

iii. if the corporation is a qualified Canadian-controlled private corporation,

(1) on or before the last day of each three-month period in the current taxation year (or if the period that remains in a year after the end of the last such three-month period is less than three months, on or before the last day of that remaining period), an amount equal to 1/4 of its tax for the year estimated in accordance with section 1004 or of its first basic provisional account referred to in subparagraph i, or

(2) on or before the last day of the first period in the current taxation year not exceeding three months, a particular amount equal to 1/4 of its second basic provisional account referred to in subparagraph ii and, on or before the last day of each of the following three-month periods in the current year (or if the period that remains in a year after the end of the last such three-month period is less than three months, on or before the last day of that remaining period), an amount equal to 1/3 of the amount by which its first basic provisional account referred to in subparagraph i exceeds the particular amount; and

(b) on or before the corporation's balance-due day for its taxation year, the remainder of the corporation's tax payable for the year.

Exception.

However, subparagraph *a* of the first paragraph does not apply to a corporation whose total taxes payable for the year under this Act, other than tax payable under Part IV.1, determined without reference to the specified tax consequences for the year, or whose first basic provisional accounts within the meaning of the regulations under subparagraph i of subparagraph *a* of the first paragraph, for the year, other than the first basic provisional account related to tax payable under Part IV.1, do not exceed \$3,000.

Application to SIFT trusts.

The first and second paragraphs apply, with the necessary modifications, to a SIFT trust.

History: 1972, c. 23, s. 755; 1973, c. 17, s. 115; 1975, c. 22, s. 235; 1982, c. 5, s. 184; 1983, c. 44, s. 39; 1986, c. 15, s. 178; 1986, c. 19, s. 188; 1987, c. 21, s. 71; 1990, c. 7, s. 146; 1991, c. 8, s. 74; 1992, c. 1, s. 159; 1993, c. 19, s. 89; 1993, c. 64, s. 135; 1997, c. 3, s. 71; 1998, c. 16, s. 222; 2009, c. 15, s. 190; 2010, c. 5, s. 134; 2017, c. 1, s. 266 [amended by 2019, c. 14, s. 615].

Corresponding Federal Provision: 157(1), (2) and (2.1).

Qualified Canadian-controlled private corporation.

1027.0.1. For the purposes of subparagraph iii of subparagraph *a* of the first paragraph of section 1027, a qualified Canadian-controlled private corporation, at a particular time in a taxation year, means a Canadian-controlled private corporation in respect of which the following conditions are met:

(a) the corporation's taxable income for the year or the preceding taxation year does not exceed \$500,000;

(b) the corporation's paid-up capital for the year or the preceding taxation year does not exceed \$10,000,000;

(c) the excess amount referred to in paragraph *a* of section 771.2.1.2, computed in respect of the corporation for the year or the preceding taxation year, is an amount greater than zero; and

(d) throughout the 12-month period that ends on the day on which the corporation is required to make its last payment under this division, the corporation has

i. paid, on or before the date of expiry of the time allowed to do so, all amounts that were required to be paid under section 1015, Chapter IV of the Act respecting parental insurance (chapter A-29.011), Division I of Chapter IV of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), Title III of the Act respecting the Québec Pension Plan (chapter R-9) or Title I of the Act respecting the Québec sales tax (chapter T-0.1), and

ii. filed, on or before the date of expiry of the time allowed to do so, all returns that were required to be filed by the corporation under this Act or Title I of the Act respecting the Québec sales tax.

Paid-up capital.

For the purposes of subparagraph *b* of the first paragraph, the paid-up capital of a corporation is

(a) in respect of a corporation referred to in paragraph *a* or *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 section 1138.2.6;

(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 and if paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136; 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 section 1138.2.6.

History: 2009, c. 15, s. 191; 2010, c. 5, s. 135.

Corresponding Federal Provision: 157(1.2) to (1.4).

Associated corporations.

1027.0.2. For the purposes of subparagraphs *a* and *b* of the first paragraph of section 1027.0.1,

(a) the taxable income of a corporation that, in a particular taxation year, is associated with one or more other

corporations is equal to the aggregate of the corporation's taxable income for the particular year and of each of the other corporations' taxable income for their respective taxation years that end in the particular year; and

(b) the paid-up capital of a corporation that, in a particular taxation year, is associated with one or more other corporations is equal to the aggregate of the corporation's paid-up capital determined in accordance with the second paragraph of section 1027.0.1 for the particular year and of the paid-up capital so determined of each of the other corporations for their respective taxation years that end in the particular year.

History: 2009, c. 15, s. 191.

Corresponding Federal Provision: 157(1.3)(b) and (1.4)(b).

Corporation that ceases to be a qualified Canadian-controlled private corporation.

1027.0.3. If payments that a corporation is required to make under section 1027 in a taxation year were made in accordance with subparagraph iii of subparagraph *a* of the first paragraph of that section and the corporation ceases, at a particular time in the taxation year, to be able to avail itself of that subparagraph iii, the following rules apply for the purpose of determining the amounts that the corporation is required to pay to the Minister under section 1027 for the part of the year that follows the particular time:

(a) subparagraph iii of subparagraph *a* of the first paragraph of section 1027 is to be read as follows:

“iii. on or before the last day of each month in the current taxation year, the amount determined by the formula

$(A - B) / C$;” and

(b) section 1027 is to be read as if the following paragraph was added after the second paragraph:

“In the formula in subparagraph iii of subparagraph *a* of the first paragraph,

(a) *A* is the corporation's tax for the taxation year estimated in accordance with section 1004 or the corporation's first basic provisional account referred to in subparagraph i of subparagraph *a* of the first paragraph;

(b) *B* is the aggregate of the payments that the corporation was required to make in the taxation year and before the particular time referred to in section 1027.0.3, in accordance with subparagraph iii of subparagraph *a* of the first paragraph; and

(c) *C* is the number of months in the taxation year that end after the particular time referred to in section 1027.0.3.”

History: 2009, c. 15, s. 191.

Corresponding Federal Provision: 157(1.5).

DIVISION III

(Repealed).

1027.1. *(Repealed).*

History: 2003, c. 9, s. 169; 2013, c. 10, s. 95.

1027.2. *(Repealed).*

History: 2003, c. 9, s. 169; 2013, c. 10, s. 95.

1027.3. *(Repealed).*

History: 2003, c. 9, s. 169; 2013, c. 10, s. 95.

DIVISION III.1

INSTALMENT DEFERRAL FOR MANUFACTURING CORPORATIONS

Definitions:

1027.4. In this division,

“*eligible instalment day*”;

“eligible instalment day” of a qualified corporation means a day in the calendar year 2008 on or before which an instalment to be paid by the corporation in respect of the corporation's tax payable under this Part for the taxation year that includes that day would become payable if this Act were read without reference to this division;

“*manufacturing corporation*”;

“manufacturing corporation” for a taxation year means a corporation whose gross income from its manufacturing or processing activities for the preceding taxation year exceeds 50% of the corporation's total gross income for that preceding taxation year;

“*manufacturing corporation operating mainly in the forest industry*”;

“manufacturing corporation operating mainly in the forest industry” for a particular taxation year means a manufacturing corporation for the particular year that meets the following conditions:

(a) the activities of the corporation for the particular year consist in any combination of

i. sawmill and wood preservation activities included in the group described under code 3211 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada,

ii. activities involved in the manufacturing of veneer, plywood and engineered wood products included in the group described under code 3212 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada, excluding activities involved in the manufacturing of structural wood products included in the class described under code 321215 of that publication, and

iii. activities relating to pulp, paper and paperboard mills included in the group described under code 3221 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada; and

(b) the corporation's gross income from activities described in paragraph *a* for the taxation year that precedes the particular year exceeds 50% of the corporation's total gross income for that preceding taxation year;

“manufacturing or processing activities”;

“manufacturing or processing activities” of a corporation means activities included in the groups described under codes 31 to 33 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada;

“qualified corporation”;

“qualified corporation” for a particular taxation year means

(a) a manufacturing corporation operating mainly in the forest industry for the particular year; and

(b) a manufacturing corporation for the particular year, other than a corporation described in paragraph *a*, the paid-up capital of which determined for the taxation year preceding the particular year does not exceed,

i. if the corporation is not associated with any other corporation in the particular year, \$75,000,000, and

ii. if the corporation is associated with one or more other corporations in the particular year, the amount by which \$75,000,000 exceeds the aggregate of the paid-up capital of each of those other corporations determined either for that other corporation's last taxation year that ended in the 12 months that precede the beginning of the particular year, or, if the other corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles.

Paid-up capital.

For the purposes of paragraph *b* of the definition of “qualified corporation” in the first paragraph, the paid-up capital of a corporation is its paid-up capital determined in accordance with Title I of Book III of Part IV.

History: 2009, c. 15, s. 192.

Balance-due day postponed.

1027.5. An amount that, because of subparagraph *a* of the first paragraph of section 1027, would otherwise become payable on or before an eligible instalment day by a qualified corporation becomes payable on or before not that day but the qualified corporation's balance-due day for the taxation year that includes the eligible instalment day.

History: 2009, c. 15, s. 192.

DIVISION IV
(Repealed).

1028. (Repealed).

History: 1972, c. 23, s. 756; 1973, c. 17, s. 116; 1975, c. 22, s. 236; 1986, c. 15, s. 179; 1986, c. 19, s. 189; 1997, c. 3, s. 71; 1997, c. 85, s. 244; 1998, c. 16, s. 223; 2000, c. 39, s. 120; 2001, c. 7, s. 141; 2005, c. 1, s. 211.

1029. (Repealed).

History: 1972, c. 23, s. 757; 1972, c. 26, s. 72; 1977, c. 26, s. 113; 1984, c. 35, s. 28; 1993, c. 64, s. 136.

CHAPTER III.1
REFUNDABLE TAX CREDITS

DIVISION I
(Repealed).

1029.0.1. (Repealed).

History: 1997, c. 14, s. 178; 1997, c. 85, s. 245; 2000, c. 39, s. 121.

1029.1. (Repealed).

History: 1981, c. 12, s. 12; 1983, c. 44, s. 40; 1985, c. 25, s. 149; 1997, c. 3, s. 71; 1997, c. 14, s. 179; 2000, c. 39, s. 121.

1029.2. (Repealed).

History: 1981, c. 12, s. 12; 1982, c. 5, s. 185; 1983, c. 44, s. 41; 1985, c. 25, s. 150; 1989, c. 5, s. 199; 1990, c. 7, s. 147; 1991, c. 8, s. 75; 1992, c. 1, s. 161; 1993, c. 19, s. 90; 1995, c. 1, s. 199; 1995, c. 63, s. 116; 1997, c. 3, s. 71; 1997, c. 14, s. 180; 1997, c. 31, s. 99; 2000, c. 39, s. 121.

1029.2.1. (Repealed).

History: 1987, c. 21, s. 72; 1993, c. 64, s. 137; 1995, c. 63, s. 261; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2000, c. 39, s. 121.

1029.3. (Repealed).

History: 1981, c. 12, s. 12; 1983, c. 44, s. 42; 1984, c. 15, s. 233; 1989, c. 77, s. 100; 1997, c. 3, s. 71; 2000, c. 39, s. 121.

1029.4. (Repealed).

History: 1981, c. 12, s. 12; 1997, c. 3, s. 71; 2000, c. 39, s. 121.

1029.5. (Repealed).

History: 1981, c. 12, s. 12; 1997, c. 3, s. 71; 2000, c. 39, s. 121.

1029.6. (Repealed).

History: 1981, c. 12, s. 12; 1995, c. 63, s. 117; 1997, c. 3, s. 71; 1997, c. 85, s. 246; 1998, c. 16, s. 251; 2000, c. 39, s. 121.

DIVISION I.1
RULES AND DEFINITIONS APPLICABLE TO
CERTAIN REFUNDABLE TAX CREDITS

Definitions:

1029.6.0.0.1. In this chapter,

“government assistance”;

“government assistance” means assistance from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance;

“non-government assistance”;

“non-government assistance” means an amount that would be included in computing the income of a taxpayer by reason of paragraph *w* of section 87 if that paragraph were read without reference to subparagraphs *ii* and *iii* thereof;

“qualified business”.

“qualified business”, in relation to any business carried on by a taxpayer, means any business carried on by the taxpayer other than a specified investment business or a personal services business.

Exceptions.

For the purposes of Divisions II.4 to II.5.2, II.6 to II.6.0.8, II.6.0.9.1 to II.6.0.11, II.6.2, II.6.4.2, II.6.4.2.1, II.6.5, II.6.5.3, II.6.5.6 to II.6.5.8, II.6.6.1 to II.6.15 and II.22 to II.27, the following rules apply:

(a) in the case of Division II.4, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under Divisions II to II.4, or

ii. an amount deducted or deductible under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than the portion of the amount that may reasonably be attributed to an amount that is a qualified expenditure, within the meaning of subsection 9 of section 127 of that Act, and that, for the purposes of that definition, is an expenditure made before 1 May 1987;

(b) in the case of each of Divisions II.4.2, II.5.1.1 to II.5.1.3, II.5.2, II.6.0.0.1, II.6.0.1.7, II.6.0.1.8, II.6.0.1.10, II.6.0.1.11, II.6.0.4 to II.6.0.7, II.6.0.10, II.6.0.11, II.6.2, II.6.4.2, II.6.4.2.1, II.6.5, II.6.5.3, II.6.5.6 to II.6.5.8, II.6.6.1 to II.6.6.7, II.6.14.3 to II.6.14.5 and II.27, government assistance or non-government assistance does not include an amount deemed to have been paid to the Minister for a taxation year under that division;

(b.1) in the case of Division II.5.1, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division, or

ii. an amount deducted or deductible under subsection 5 or 6 of section 127 of the Income Tax Act that may reasonably be attributed to an amount that is an apprenticeship expenditure, within the meaning of subsection 9 of section 127 of that Act;

(c) in the case of Division II.6, government assistance or non-government assistance does not include

i. an amount that a corporation is deemed to have paid to the Minister for a taxation year under that division,

i.1. an amount that a corporation is deemed to have paid for a taxation year under subsection 3 of section 125.4 or 125.5 of the Income Tax Act,

ii. the amount of financial assistance granted by the Conseil des arts et des lettres du Québec, the Société de développement des entreprises culturelles, the Canada Council for the Arts or the Canadian Independent Film and Video Fund,

iii. the amount of financial assistance granted by the National Film Board of Canada,

iv. the amount of assistance granted by Telefilm Canada in accordance with the Telefilm Canada Act (Revised Statutes of Canada, 1985, chapter C-16), other than any subsidy granted by that body under a dubbing and subtitling assistance fund,

v. the amount of financial assistance granted by the Canadian Television Fund under the Licence Fee Program or the Equity Investment Program,

v.1. the amount of financial assistance granted by the Canada Media Fund,

vi. *(subparagraph repealed)*,

vii. *(subparagraph repealed)*,

viii. the amount of financial assistance granted by the Fonds de développement économique de la région de la Capitale-Nationale,

viii.1. the amount of financial assistance paid by the Société du 400^e anniversaire de Québec,

viii.2. the amount of financial assistance granted by the Fonds francophone d'aide au développement cinématographique,

viii.3. the amount of financial assistance granted under the Mesure régionale d'aide au démarrage de productions cinématographiques et télévisuelles implemented by the

Ministère de la Culture, des Communications et de la Condition féminine, Ville de Québec and the Bureau de la Capitale-Nationale,

viii.4. the amount of financial assistance granted by the Société des célébrations du 375^e anniversaire de Montréal,

viii.5. the amount of financial assistance granted under the programme de Soutien à la production cinématographique et télévisuelle de la Ville de Québec, or

ix. the amount of any financial contribution paid by a public body that holds a broadcasting licence issued by the Canadian Radio-television and Telecommunications Commission;

(d) in the case of Division II.6.0.0.2, government assistance or non-government assistance does not include

i. an amount that a corporation is deemed to have paid to the Minister for a taxation year under that division,

ii. an amount that a corporation is deemed to have paid for a taxation year under subsection 3 of section 125.4 or 125.5 of the Income Tax Act,

iii. the amount of financial assistance paid by the Société du 400^e anniversaire de Québec, or

iv. the amount of financial assistance granted by the Société des célébrations du 375^e anniversaire de Montréal;

(e) in the case of Division II.6.0.0.3, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division,

ii. the amount of financial assistance granted by the Conseil des arts et des lettres du Québec, the Société de développement des entreprises culturelles, the Canada Council for the Arts, the Department of Canadian Heritage, Telefilm Canada out of the Canada Music Fund, Fondation Musicaction or the Foundation Assisting Canadian Talent on Recordings,

iii. the amount of financial assistance paid by the Société du 400^e anniversaire de Québec, or

iv. the amount of financial assistance granted by the Société des célébrations du 375^e anniversaire de Montréal;

(e.1) in the case of Division II.6.0.0.4, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division,

ii. the amount of financial assistance granted by the Conseil des arts et des lettres du Québec, the Société de développement des entreprises culturelles, the Canada Council for the Arts, Fondation Musicaction or the Foundation Assisting Canadian Talent on Recordings,

iii. the amount of the fees paid by a government, municipality or other public authority to acquire performances of a show,

iv. the amount of financial assistance paid by the Société du 400^e anniversaire de Québec, or

v. the amount of financial assistance granted by the Société des célébrations du 375^e anniversaire de Montréal;

(e.2) in the case of Division II.6.0.0.4.1, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division, or

ii. the amount of financial assistance granted by the Société des célébrations du 375^e anniversaire de Montréal;

(f) in the case of Division II.6.0.0.5, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division,

ii. the amount of financial assistance granted by the Canada Book Fund of the Department of Canadian Heritage,

iii. grants paid by the Canada Council for the Arts to book publishers, for international translation and for co-operative projects in writing and publishing,

iv. amounts paid under a book publishing industry development program of the Société de développement des entreprises culturelles,

v. the amount of financial assistance paid by the Société du 400^e anniversaire de Québec, or

vi. the amount of financial assistance granted by the Société des célébrations du 375^e anniversaire de Montréal;

(g) (*subparagraph repealed*);

(h) in the case of each of Divisions II.6.0.1.2 to II.6.0.1.6, II.6.0.1.9 and II.6.14.2, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division, or

ii. any amount deducted or deductible under subsection 5 or 6 of section 127 of the Income Tax Act;

- (i) in the case of Division II.6.0.3, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division,
- ii. any amount deducted or deductible under subsection 5 or 6 of section 127 of the Income Tax Act, or
- iii. except for the purposes of the definition of “specified wages” in the first paragraph of section 1029.8.36.0.17 and sections 1029.8.36.0.24 and 1029.8.36.0.31, the amount of a grant relating to wages that is paid under the Regulation respecting the Private Investment and Job Creation Promotion Fund made by Order in Council 530-97 dated 23 April 1997, as that regulation read at the time of its application;
- (i.1) in the case of Division II.6.0.8, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division,
- ii. the amount of assistance attributable to a specific grain price stabilization program negotiated with La Financière agricole du Québec,
- iii. the amount of assistance attributable to a workforce training program,
- iv. the amount of federal government assistance directly attributable to the ethanol industry segment, in particular regarding market expansion, process improvement, energy efficiency and change in raw materials, or
- v. the amount of assistance attributable to the program supporting the improvement of first generation fuel ethanol production efficiency;
- (i.2) in the case of Division II.6.0.9.1, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division,
- ii. the amount of assistance attributable to a workforce training program, or
- iii. the amount of federal government assistance directly attributable to the biodiesel fuel industry segment, in particular regarding market expansion, process improvement, energy efficiency and change in raw materials;
- (i.3) in the case of Division II.6.0.9.2, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division, or
- ii. the amount of assistance attributable to a workforce training program;
- (j) in the case of Division II.6.15, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division, or
- ii. the portion of any amount deducted or deductible under subsection 5 or 6 of section 127 of the Income Tax Act that can reasonably be attributed to an amount that is a pre-production mining expenditure within the meaning of subsection 9 of that section 127;
- (k) in the case of Division II.22, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for the taxation year 2009 under that division, or
- ii. the portion of any amount deducted or deductible under the Income Tax Act that can reasonably be attributed to an expenditure described in the definition of “home improvement and renovation expenditure” in section 1029.8.146;
- (l) in the case of Division II.23, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division, or
- ii. the amount of financial assistance granted by the Ministère des Ressources naturelles et de la Faune under the Rénoclimat program;
- (m) in the case of Division II.24, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division,
- ii. the amount of financial assistance granted by the Ministère des Ressources naturelles et de la Faune under the Rénoclimat program, or
- iii. the portion of any amount deducted or deductible under the Income Tax Act that may reasonably be attributed to an expenditure described in the definition of “home renovation expenditure” in section 1029.8.159;
- (n) in the case of Division II.25, government assistance or non-government assistance does not include
- i. an amount deemed to have been paid to the Minister for a taxation year under that division, or

ii. the amount of financial assistance granted by the Ministère des Ressources naturelles et de la Faune under the Rénoclimat program or the Chauffez vert program; and

(o) in the case of Division II.26, government assistance or non-government assistance does not include

i. an amount deemed to have been paid to the Minister for a taxation year under that division, or

ii. an amount deemed to have been paid on account of an individual's tax payable for a taxation year, other than the amount described in subparagraph i, under this Part or the Income Tax Act that may reasonably be attributed to an expenditure described in the definition of "septic system repair expenditure" in section 1029.8.174.

Government assistance.

Subject to subparagraph *b* of the second paragraph, when that subparagraph *b* refers to Division II.6.0.0.1, and subparagraphs *c* to *f* of the second paragraph, government assistance includes the amount of any financial contribution in respect of a property that is a Québec film production, within the meaning of the first paragraph of section 1029.8.34, a qualified production, within the meaning of the first paragraph of section 1029.8.36.0.0.1 or 1029.8.36.0.0.4, a qualified low-budget production, within the meaning of the first paragraph of section 1029.8.36.0.0.4, a qualified property, within the meaning of the first paragraph of section 1029.8.36.0.0.7, a qualified performance, within the meaning of the first paragraph of section 1029.8.36.0.0.10, an eligible work or an eligible group of works, within the meaning of the first paragraph of section 1029.8.36.0.0.13, that a corporation has received, is entitled to receive or may reasonably expect to receive from a government, municipality or other public authority, or a person or partnership that pays that contribution in circumstances where it is reasonable to conclude that the person or partnership would not have paid the contribution but for an amount that the person or partnership or another person or partnership received from a government, municipality or other public authority.

History: 2001, c. 51, s. 87; 2001, c. 53, s. 260; 2002, c. 9, s. 43; 2002, c. 40, s. 99; 2003, c. 9, s. 170; 2004, c. 21, s. 253; 2005, c. 1, s. 212; 2005, c. 23, s. 141; 2005, c. 38, s. 234; 2006, c. 13, s. 87; 2006, c. 36, s. 101; 2007, c. 3, s. 72; 2007, c. 12, s. 101; 2009, c. 5, s. 426; 2009, c. 15, s. 193; 2010, c. 5, s. 136; 2010, c. 25, s. 112; 2011, c. 1, s. 51; 2011, c. 34, s. 70; 2012, c. 8, s. 175; 2013, c. 10, s. 96; 2015, c. 21, s. 363; 2015, c. 24, s. 134; 2017, c. 1, s. 267; 2017, c. 29, s. 172; 2019, c. 14, s. 297; 2020, c. 16, s. 143.

Interpretation Bulletins: IMP. 135.2-1/R1.

Restriction regarding expenses.

1029.6.0.0.2. A taxpayer may be deemed to have paid an amount to the Minister on account of the taxpayer's tax payable for a taxation year under any of Divisions II

to II.6.15 only to the extent that the cost, expenditure or expenses taken into account in computing that amount are reasonable in the circumstances.

History: 2019, c. 14, s. 298.

Restrictions.

1029.6.0.1. Subject to any special provisions in this chapter, the following rules apply:

(a) where, in respect of a particular expenditure or particular costs, an amount is deducted in computing a taxpayer's tax payable for a taxation year, is deemed under any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3, II.6.5.7 and II.6.14.2 to II.6.15 to have been paid to the Minister by the taxpayer, or is deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer, no other amount may be deemed to have been paid to the Minister by the taxpayer for any taxation year under any of those divisions, or be deemed to have been an overpayment to the Minister by the taxpayer under that section 34.1.9, in respect of all or part of a cost, an expenditure or costs included in the particular expenditure or the particular costs, except for (in the case of an amount deducted in computing a taxpayer's tax payable for a taxation year under Title III.4 of Book V) an amount deemed to have been paid by the taxpayer for the year under Division II.6.0.1.9;

(b) where 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 a particular expenditure or to particular costs and that the person or a member of the partnership may, for a taxation year, be deemed to have paid an amount to the Minister under any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3, II.6.5.7 and II.6.14.2 to II.6.15, in respect of that expenditure or those costs, as the case may be, no amount may be deemed to have been paid to the Minister by another taxpayer for any taxation year under any of those divisions, or be deemed to have been an overpayment to the Minister by another taxpayer under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec, in respect of all or part of a cost, an expenditure or costs incurred in performing the particular contract or any contract derived therefrom, that may reasonably be considered to relate to the particular expenditure or particular costs;

(c) a taxpayer who is a corporation operating an international financial centre in a taxation year or a member of a partnership at the end of a fiscal period of the partnership ending in the year and in which the partnership operates such a centre shall not be deemed to have paid to the Minister any amount for the year under this chapter other than an amount that the taxpayer is deemed to have so paid for the year under Division II.6.0.1.8, in respect of a cost, an expenditure or any costs, incurred by the taxpayer or the

partnership in the course of the operations of the international financial centre before,

i. if the international financial centre is operated by the taxpayer on 30 March 2010, 1 January 2013, or, if it is earlier, the date on which an election made by the taxpayer under the fourth paragraph of section 1029.8.36.166.62 becomes effective, or

ii. if the international financial centre is operated by the partnership, 1 January 2014;

(d) no corporation may be deemed to have paid an amount to the Minister for a taxation year under this chapter in respect of a cost, an expenditure or any costs incurred by the corporation before 13 June 2003, where the corporation is governed, in the year, by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1);

(e) no corporation may be deemed to have paid an amount to the Minister for a taxation year under this chapter in respect of a cost, an expenditure or any costs incurred by the corporation after 11 March 2003 and before 13 June 2003, where the corporation is governed, in the year, by an Act establishing a labour-sponsored fund;

(f) for the purposes of a particular division of this chapter, a particular amount included in computing an individual's income from an office or employment under Chapter II of Title II of Book III may not be taken into account in computing a particular expenditure that includes the particular amount in respect of which an amount is deemed to have been paid by a taxpayer for a taxation year under the particular division if

i. the particular expenditure is wages, within the meaning of the first paragraph of section 1029.8.36.0.3.72, or a salary or wages, within the meaning of the first paragraph of section 1029.8.33.11.11, and

ii. the particular amount is the value of a benefit that the taxpayer did not pay in currency.

Exception.

Despite subparagraph *b* of the first paragraph, where a person or a member of a partnership may, for a taxation year, be deemed to have paid an amount to the Minister under Division II.6.0.1.11, in respect of costs under a particular contract that are incurred for the provision of services, or under Division II.6.14.2.2, in respect of costs relating to a particular contract, another taxpayer may, for any taxation year, be deemed to have paid an amount to the Minister under Division II.6.0.1.9, in respect of an expenditure,

incurred in performing the particular contract, that may reasonably be considered to relate to those costs.

History: 1995, c. 1, s. 118; 1995, c. 63, s. 118; 1997, c. 3, s. 71; 1997, c. 14, s. 182; 1997, c. 85, s. 247; 1999, c. 83, s. 167; 1999, c. 86, s. 84; 2001, c. 51, s. 88; 2002, c. 9, s. 44; 2002, c. 40, s. 100; 2003, c. 9, s. 171; 2004, c. 21, s. 254; 2005, c. 1, s. 213; 2005, c. 23, s. 142; 2006, c. 13, s. 88; 2007, c. 12, s. 102; 2009, c. 5, s. 427; 2010, c. 5, s. 137; 2010, c. 25, s. 113; 2011, c. 1, s. 52; 2012, c. 8, s. 176; 2015, c. 21, s. 364; 2015, c. 36, s. 75; 2019, c. 14, s. 299.

1029.6.0.1.1. (Repealed).

History: 2000, c. 39, s. 122; 2002, c. 9, s. 45.

Tax credit on filing of documents.

1029.6.0.1.2. Subject to any special provisions in this chapter, a taxpayer may be deemed to have paid an amount to the Minister on account of the taxpayer's tax payable for a particular taxation year under any of Divisions II to II.6.15 (in this paragraph referred to as the "particular division"), only if the taxpayer files with the Minister the prescribed form containing prescribed information and, if applicable, a copy of each agreement, certificate, favourable advance ruling, qualification certificate, rate schedule, receipt or report the taxpayer is required to file in accordance with that division, on or before the day that is the last of the following days:

(a) the last day of the 12-month period that follows the taxpayer's filing-due date for the particular year; or

(b) either of the following days:

i. where a favourable advance ruling that the taxpayer is required to file with the Minister in accordance with the particular division is issued by the Société de développement des entreprises culturelles, the last day of the 3-month period that follows the date on which the ruling was given, or

ii. in any other case, the last day of the 3-month period that follows the date on which the certificate or qualification certificate that the taxpayer is required to file with the Minister in accordance with the particular division is issued.

Presumption.

For the purposes of the first paragraph, a taxpayer is deemed to have filed with the Minister the prescribed form containing prescribed information and, if applicable, a copy of the documents referred to in the first paragraph within the time limit provided for in that paragraph that applies to the taxpayer for a taxation year so as to be deemed to have paid an amount to the Minister for the year in respect of a cost, an expenditure or any costs under a provision of any of Divisions II to II.6.15 (in this paragraph referred to as the "particular provision"), if

(a) the taxpayer files with the Minister the prescribed form containing prescribed information and, if applicable, a copy of the documents referred to in the first paragraph after the expiry of that time limit so as to be deemed to have paid an amount to the Minister for the year in respect of the cost, expenditure or costs under the particular provision; and

(b) the taxpayer has filed with the Minister the prescribed form containing prescribed information and, if applicable, a copy of the documents referred to in the first paragraph within that time limit so as to be deemed to have paid an amount to the Minister for the year in respect of the cost, expenditure or costs under a provision of any of Divisions II to II.6.15 other than the particular provision.

Documents deemed filed.

For the purposes of the first paragraph and subparagraph *b* of the second paragraph, a taxpayer is deemed to have filed with the Minister, within the time limit provided for in the first paragraph that is applicable to the taxpayer for a particular taxation year, a copy of the certificate, qualification certificate or favourable advance ruling which the taxpayer files with the Minister in accordance with any of Divisions II to II.6.15, if the taxpayer filed, before the expiry of that time limit, the prescribed form containing prescribed information and provided for in that division.

History: 2001, c. 51, s. 89; 2002, c. 9, s. 46; 2002, c. 40, s. 101; 2006, c. 36, s. 102; 2007, c. 12, s. 103; 2011, c. 1, s. 53; 2011, c. 6, s. 184; 2013, c. 10, s. 97; 2015, c. 36, s. 76; 2017, c. 29, s. 173; 2019, c. 14, s. 300.

Interpretation Bulletins: LAF. 36-1/R1.

Application of section 1029.6.0.1.

1029.6.0.1.2.1. For the purposes of subparagraphs *a* and *b* of the first paragraph of section 1029.6.0.1, a particular expenditure or particular costs, in respect of which a particular amount is or may be deemed under any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3, II.6.5.7 and II.6.14.2 to II.6.15 to have been paid to the Minister by a taxpayer, or by a person or a member of a partnership, as the case may be, for a taxation year, or is deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer, include the aggregate of the expenditures and costs taken into account, or to be taken into account, as the case may be, in computing the amount used as a basis for computing the particular amount.

History: 2005, c. 23, s. 143; 2006, c. 13, s. 89; 2007, c. 12, s. 104; 2010, c. 25, s. 114; 2012, c. 8, s. 177; 2015, c. 21, s. 365.

Consideration in respect of a contract payment.

1029.6.0.1.2.2. The rule set out in the second paragraph applies if

(a) any of the following conditions is met in relation to an expenditure, in this section referred to as the “initial expenditure”, incurred in whole or in part after 12 December 2003:

i. by reason of subparagraph *b* of the first paragraph of section 1029.6.0.1, no amount may, in respect of all or part of a cost, an expenditure or costs that constitute only a portion of the initial expenditure, in this section referred to as the “portion not qualifying for a tax credit”, be deemed under any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3, II.6.5.7 and II.6.14.2 to II.6.15 to have been paid to the Minister by a taxpayer for a taxation year, or be deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer, or

ii. a contract payment, within the meaning of the first paragraph of section 1029.8.36.0.17 or section 1029.8.36.4, must be taken into account in computing the amount used as a basis for computing, in respect of the portion of the initial expenditure that, where applicable, exceeds the portion not qualifying for a tax credit thereof, the amount that is deemed under Division II.6.0.3 or II.6.2 to have been paid to the Minister by a taxpayer for a taxation year;

(b) but for this section and section 1029.6.0.1.2.3, a particular amount would be, in respect of the portion of the initial expenditure, in subparagraph *c* and the second paragraph referred to as the “portion qualifying for a tax credit”, that, where applicable, exceeds the portion not qualifying for a tax credit thereof, deemed under any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3, II.6.5.7 and II.6.14.2 to II.6.15 to have been paid to the Minister by the taxpayer for the year, or deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec to have been an overpayment to the Minister by the taxpayer; and

(c) the portion qualifying for a tax credit of the initial expenditure is an expenditure in respect of which a particular maximum amount, which would correspond to a particular limit, in dollars, established on an annual, weekly or hourly basis, or which, where applicable, would be obtained by multiplying, before the application of section 1029.6.0.1.2.3, that particular limit by a proportion or, successively, by more than one proportion, would be provided for by the division referred to in subparagraph *b* or by Division II.6.0.1.6, for the purpose of determining the amount used as a basis for computing the particular amount referred to in that subparagraph *b*.

Rule applicable.

The amount that, in respect of the portion qualifying for a tax credit of the initial expenditure, may be deemed under the division referred to in subparagraph *b* of the first paragraph to have been paid to the Minister by the taxpayer for the year, or deemed under section 34.1.9 of the Act respecting the

Régie de l'assurance maladie du Québec to have been an overpayment to the Minister by the taxpayer, must be determined as if, subject to section 1029.6.0.1.2.3, the maximum amount then applicable was equal to the product obtained by multiplying the particular maximum amount referred to in subparagraph *c* of the first paragraph for the purposes, in respect of the portion qualifying for a tax credit of the initial expenditure, of that division or Division II.6.0.1.6, by the proportion that the part of the period covered by the initial expenditure that may reasonably be attributed to the portion of the initial expenditure that exceeds the aggregate, relating to the portion of the initial expenditure that was incurred after 12 December 2003, of the portion not qualifying for a tax credit of the initial expenditure and any contract payment, within the meaning of the first paragraph of section 1029.8.36.0.17 or section 1029.8.36.4, taken into account in computing the amount used as a basis for computing, in respect of the portion qualifying for a tax credit of the initial expenditure, the particular amount referred to in subparagraph *b* of the first paragraph, is of the period covered by the initial expenditure.

History: 2005, c. 23, s. 143; 2006, c. 13, s. 90; 2007, c. 12, s. 105; 2010, c. 25, s. 115; 2012, c. 8, s. 178; 2015, c. 21, s. 366.

Expenditure entitling to more than one tax credit.

1029.6.0.1.2.3. In this section, an expenditure entitling a taxpayer to more than one tax credit for a taxation year means a particular expenditure or particular costs that

(a) were incurred in whole or in part after 12 December 2003;

(b) relate to an activity that is eligible, for the purposes, for the year, of any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3, II.6.5.7 and II.6.14.2 to II.6.15 in respect of the taxpayer, such division being in this section referred to as the “applicable division”, and for the purposes, for any taxation year, of one or more other divisions among those divisions, each division then applicable, if any, being in this section referred to as the “applicable division”, or of any of Divisions II.6.0.1.7 and II.6.6.1 to II.6.6.7, in respect of the taxpayer;

(c) are attributable to the period corresponding to the aggregate of all the periods in the year, or relating to the year, during which they relate to the activity referred to in subparagraph *b*; and

(d) relate to an activity that is eligible for the purposes, for at least a part of the period referred to in subparagraph *c*, of both the first applicable division mentioned in subparagraph *b* and at least one of the other divisions referred to in that subparagraph *b*.

Rules applicable.

If, for the purposes, in respect of an expenditure entitling a taxpayer to more than one tax credit for a taxation year, of the applicable divisions relating to the expenditure, the taxpayer allocates among those applicable divisions all or part of the period to which that expenditure is attributable, the following rules apply, except for the purposes of subparagraph *b* of the first paragraph of section 1029.6.0.1, for the purpose of establishing, in respect of that expenditure, the particular amount deemed under an applicable division relating to the expenditure to have been paid to the Minister by the taxpayer for the 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 been an overpayment to the Minister by the taxpayer:

(a) if a period is attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that applicable division or Division II.6.0.1.6, the portion of that expenditure that does not relate to that period is not to be taken into account;

(b) if no period is attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that applicable division or Division II.6.0.1.6, no portion of that expenditure is to be taken into account; and

(c) if, for the purpose of establishing the amount used as a basis for computing the particular amount, a maximum amount that corresponds to a particular limit, in dollars, established on an annual, weekly or hourly basis, or that, where applicable, is obtained by multiplying that particular limit by a proportion or, successively, by more than one proportion is to be taken into account, that maximum amount is deemed to be equal to

i. if the second paragraph of section 1029.6.0.1.2.2 applies for the purposes, in respect of the expenditure entitling to more than one tax credit or of part of that expenditure, of that applicable division or Division II.6.0.1.6, the product obtained by multiplying the maximum amount then determined under that second paragraph in relation to that division by the proportion, not exceeding 1, that the period that is attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that division is of the part of the period to which the expenditure entitling to more than one tax credit is attributable that was considered as a numerator in the proportion referred to in that second paragraph in relation to that division, and

ii. if subparagraph *i* does not apply, the product obtained by multiplying that maximum amount, otherwise determined, by the proportion that the period attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that applicable division or Division II.6.0.1.6, is of the part of the period to which the expenditure entitling to more than one tax credit is attributable that may reasonably be considered, for the purposes of that division, as having

been devoted to the activity referred to in subparagraph *b* of the first paragraph in relation to that expenditure.

Rules governing allocation.

For the purpose of making the allocation provided for in the second paragraph, the following rules apply:

(a) the period attributed for the purposes of a particular applicable division must be included entirely in the part of the period to which the expenditure entitling to more than one tax credit is attributable that may reasonably be considered, for the purposes of that applicable division, as having been devoted to the activity referred to in subparagraph *b* of the first paragraph in relation to that expenditure;

(b) the period attributed for the purposes of a particular applicable division must not include any part of the period attributed for the purposes of another applicable division in respect of the expenditure entitling to more than one tax credit; and

(c) the taxpayer may attribute, for the purposes of any of the applicable divisions, no part of the period to which the expenditure entitling to more than one tax credit is attributable.

History: 2005, c. 23, s. 143; 2006, c. 13, s. 91; 2007, c. 12, s. 106; 2010, c. 25, s. 116; 2012, c. 8, s. 179; 2015, c. 21, s. 367.

Rules applicable.

1029.6.0.1.2.4. For the purposes of Divisions II.6.0.1.7 and II.6.6.1 to II.6.6.7, the following rules apply:

(a) an expenditure, in respect of which no amount may, because of subparagraph *b* of the first paragraph of section 1029.6.0.1, be deemed under any of Divisions II to II.6.0.1.6, II.6.0.1.8 to II.6.2, II.6.4.2, II.6.5, II.6.5.3 and II.6.14.2 to II.6.15 to have been paid to the Minister by a corporation for a taxation year, must, where it is a salary or wages paid by the corporation, be considered to be included in computing an expenditure in respect of which the corporation is deemed to have paid an amount to the Minister under this chapter for any taxation year;

(b) the part of the particular salaries or wages that may reasonably be considered, for the purposes of a particular provision of any of those divisions, to be included in computing an expenditure in respect of which a corporation is deemed to have paid an amount to the Minister under this chapter for any taxation year corresponds, in relation to a particular amount deemed to have been paid to the Minister by the corporation under this chapter, to the amount by which the portion, attributable to the particular salaries or wages, of the aggregate of the salaries or wages that were taken into account in computing the amount used as a basis for computing the particular amount exceeds the portion, attributable to the particular salaries or wages, of the

aggregate of any contract payment, within the meaning of paragraph *c*, of any government assistance and of any non-government assistance that was taken into account in computing the amount used as a basis for computing the particular amount; and

“contract payment”.

(c) “contract payment” has the meaning assigned by section 1029.8.17 or 1029.8.17.0.1, by the first paragraph of section 1029.8.36.0.17 or by section 1029.8.36.4, as the case may be.

Provisions applicable.

Parts III.1.1.7 and III.10.1.2 to III.10.1.8 apply as if a contract payment, within the meaning of subparagraph *c* of the first paragraph, was government assistance.

History: 2005, c. 23, s. 143; 2006, c. 13, s. 92; 2007, c. 12, s. 107; 2010, c. 25, s. 117; 2012, c. 8, s. 180; 2015, c. 21, s. 368.

1029.6.0.1.3. (Repealed).

History: 2001, c. 51, s. 89; 2002, c. 9, s. 47; 2003, c. 9, s. 172; 2009, c. 15, s. 194.

Restricted interaction of certain other tax credits.

1029.6.0.1.4. Despite subparagraph *b* of the first paragraph of section 1029.6.0.1, a taxpayer may, subject to section 1029.6.0.1.5 and provided that the conditions set out in the second paragraph are satisfied, be deemed to have paid an amount to the Minister for a taxation year under Division II.6.0.3 in respect of all or part of a wage expense incurred in performing a particular contract, or any contract derived therefrom, that may reasonably be considered to relate to a particular expenditure, even if it may reasonably be considered that all or a portion of a consideration paid or payable by a person under the particular contract relates to the particular expenditure and that the person may, for a taxation year, be deemed to have paid an amount to the Minister under Division II.6 or II.6.0.0.2 in respect of that particular expenditure.

Conditions.

The conditions to which the first paragraph refers are the following:

(a) a particular certificate has been issued to the taxpayer by the Minister of Finance before 14 March 2000 for the purposes of any of Divisions II.6.0.1.4, II.6.0.1.5 and II.6.0.2, as they read before being repealed, or of Division II.6.0.3;

(b) before 14 March 2000, the taxpayer paid wages, in performing a particular contract entered into before that date, that may reasonably be considered to relate to a particular expenditure; and

(c) it may reasonably be considered that all or a portion of a consideration paid or payable by a person under the particular contract referred to in subparagraph *b* relates to the particular expenditure referred to in that subparagraph and that the person may, for a taxation year, be deemed to have paid an amount to the Minister under Division II.6 or II.6.0.0.2 in respect of that particular expenditure.

Particular certificate.

For the purposes of subparagraph *a* of the second paragraph, a particular certificate is,

(a) where it has been issued for the purposes of Division II.6.0.1.4, as it read before being repealed, the certificate that was referred to in the first paragraph of section 1029.8.36.0.3.30;

(b) where it has been issued for the purposes of Division II.6.0.1.5, as it read before being repealed, the certificate that was referred to in the first paragraph of section 1029.8.36.0.3.40;

(c) where it has been issued for the purposes of Division II.6.0.2, as it read before being repealed, the certificate referred to in paragraph *a* of section 771.12; and

(d) where it has been issued for the purposes of Division II.6.0.3, the certificate referred to in paragraph *a* of section 771.12 or the certificate referred to in the first paragraph of section 1029.8.36.0.22.

History: 2001, c. 51, s. 89; 2003, c. 9, s. 173; 2015, c. 21, s. 369.

Acquisition of control.

1029.6.0.1.5. Where a taxpayer is a corporation control of which was acquired by a person or group of persons at any time after 13 March 2000, section 1029.6.0.1.4 does not apply to the taxpayer for any taxation year that ends after that time.

History: 2001, c. 51, s. 89; 2003, c. 9, s. 174.

1029.6.0.1.6. (Repealed).

History: 2002, c. 40, s. 102; 2010, c. 25, s. 118.

Integrity rules.

1029.6.0.1.7. For the purposes of this chapter, the following rules apply:

(a) a partnership is deemed, at a particular time, to be a corporation whose taxation year corresponds to the partnership's 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, at a particular time, 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 paragraph 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) are owned at that time by such a beneficiary, if that 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, or

(2) 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, if subparagraph 1 does not apply and that time occurs before the distribution date,

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 property of the trust or property for which property of the trust was substituted was directly or indirectly received.

History: 2004, c. 21, s. 255; 2009, c. 15, s. 195; 2015, c. 36, s. 77.

Activities performed by a partnership.

1029.6.0.1.7.1. Where, under a provision of this chapter, an activity, business, property or service entitles a member of a partnership to an amount deemed to have been paid to the Minister for a taxation year, for the purpose of determining such an amount under any provision of this chapter, the partnership's attributes are to be taken into account as though they were those of the member of the partnership.

History: 2015, c. 36, s. 78.

Power of the Minister.

1029.6.0.1.8. For the purposes of Divisions II, II.1, II.2.1, II.3, II.3.0.1, II.6 to II.6.0.0.5, II.6.0.1.2 to II.6.0.4, II.6.2, II.6.5, II.6.6.1 to II.6.6.7 and II.6.15 and for the purpose of determining the salaries or wages a person, a partnership or any other entity has incurred or paid in respect of the person's, partnership's or entity's employees for a particular period for particular activities or duties, the Minister may take into account the remuneration that would not otherwise be included in those salaries or wages that the person, partnership or entity has incurred or paid in respect of an employee while the employee was temporarily absent from the employee's employment for reasons the Minister considers reasonable.

History: 2005, c. 23, s. 144; 2007, c. 12, s. 108; 2009, c. 15, s. 196; 2010, c. 5, s. 138; 2010, c. 25, s. 119; 2012, c. 8, s. 181.

Repayment of a benefit or advantage.

1029.6.0.1.8.1. If, at a particular time after 21 April 2005, a person or partnership pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be the repayment of a benefit or advantage that, for the purpose of computing an amount, in this section referred to as the "credit amount", that a taxpayer is deemed to have paid to the Minister for any given taxation year under a particular provision of this chapter, or is deemed to have overpaid to the Minister, in relation to any given taxation year, under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), was taken into account in computing a cost, an expenditure or expenses, or the taxpayer's share of a cost, an expenditure or expenses, the following rules apply:

(a) if the cost, expenditure or expenses were incurred by the taxpayer, the provision of this chapter that applies in respect of the repayment by the taxpayer of an amount of government assistance or non-government assistance relating to the cost, expenditure or expenses, also applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the taxpayer at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, or in relation to that year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the cost, expenditure or expenses, was received by the taxpayer;

(b) if the cost, expenditure or expenses were incurred by a particular partnership of which the taxpayer is a member and

i. the benefit or advantage was obtained by a partnership or by a person other than the person referred to in subparagraph ii, the provision of this chapter that applies in

respect of the repayment by the particular partnership of an amount of government assistance or non-government assistance relating to the cost, expenditure or expenses, also applies in respect of the repayment of the benefit or advantage as if

(1) the particular amount were an amount paid by the particular partnership at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

(2) for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the cost, expenditure or expenses, was received by the particular partnership, or

ii. the benefit or advantage was obtained by the taxpayer or by a person with whom the taxpayer is not dealing at arm's length, the provision of this chapter that applies in respect of the repayment by the taxpayer of an amount of government assistance or non-government assistance relating to the cost, expenditure or expenses, also applies in respect of the repayment of the benefit or advantage as if

(1) the particular amount were an amount paid by the taxpayer at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

(2) for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the cost, expenditure or expenses, was received by the taxpayer;

(c) if the cost, expenditure or expenses were incurred by a corporation with which the taxpayer is associated at the end of the calendar year that ends in the given taxation year, the provision of this chapter that applies in respect of the repayment by the corporation of an amount of government assistance or non-government assistance relating to the cost, expenditure or expenses, also applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the corporation at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the cost, expenditure or expenses, was received by the corporation;

(d) the assumptions that, because of the application of subparagraph *a* or *c*, or of subparagraph *i* or *ii* of subparagraph *b*, were made in respect of the benefit or

advantage must be taken into account for the purpose of applying, in relation to the taxpayer, the provision to which that subparagraph *a* or *c* or that subparagraph *i* or *ii* refers, in respect of the repayment, after that time, of government assistance or non-government assistance or of another benefit or advantage, relating to the cost, expenditure or expenses, or to such a cost, such an expenditure or such expenses; and

(*e*) if the taxpayer is deemed, because of the application of subparagraph *a* or of subparagraph *i* or *ii* of subparagraph *b*, to have paid an amount to the Minister, for a taxation year, under the provision of this chapter to which that subparagraph *a* or that subparagraph *i* or *ii* refers, the taxpayer is, for the purposes of this chapter, deemed to be so deemed in relation to an amount of non-government assistance that is repaid.

Credits for scientific research and experimental development.

For the purposes of the first paragraph in respect of the repayment of a benefit or advantage that reduced, in computing the amount that a taxpayer is deemed to have paid to the Minister for a taxation year under any of sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.9.0.3, 1029.8.9.0.4, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, the amount of the wages, of the portion of the consideration, of the qualified expenditure, of the eligible fee or of the eligible fee balance, as the case may be, no account is to be taken of subparagraphs *c* to *e* of the first paragraph and its subparagraph *b* is to be read as follows:

“(*b*) if the cost, expenditure or expenses were incurred by a partnership of which the taxpayer is a member, the provision of this chapter that applies in respect of the repayment by the partnership of an amount of government assistance or non-government assistance relating to the cost, expenditure or expenses, also applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the partnership at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the cost, expenditure or expenses, was received by the partnership.”

Credit for on-the-job training periods.

For the purposes of the first paragraph in respect of the repayment of a benefit or advantage that reduced, in computing the amount that a taxpayer is deemed to have paid to the Minister for a taxation year under section 1029.8.33.6 or 1029.8.33.7, the taxpayer’s qualified expenditure or the taxpayer’s share of such a qualified expenditure, the first paragraph is to be read

(*a*) as if the following subparagraph was added after subparagraph *ii* of subparagraph *a*:

“*iii.* subparagraph *i* of paragraph *b* of section 1029.8.33.2.1 were read as follows:

“*i.* the quotient obtained by dividing the amount that the taxpayer is deemed to have paid to the Minister for that year under section 1029.8.33.6 in respect of the trainee in relation to the particular week by the percentage specified in the first paragraph of section 1029.8.33.6 that is applicable in respect of the taxpayer for the particular year, and”;

(*b*) as if the following subparagraph was added after subparagraph 2 of subparagraph *i* of subparagraph *b*:

“(3) subparagraph *i* of paragraph *b* of section 1029.8.33.2.1 were read as follows:

“*i.* the quotient obtained by dividing the amount that the taxpayer is deemed to have paid to the Minister for the particular year under section 1029.8.33.7 in respect of the trainee in relation to the particular week by the product obtained by multiplying

(1) the percentage specified in the first paragraph of section 1029.8.33.7 that is applicable in respect of the taxpayer for the particular year, and

(2) the agreed proportion in respect of the taxpayer for the partnership’s fiscal period ended in the particular year, and”, or”;

(*c*) as if the following subparagraph was added after subparagraph 2 of subparagraph *ii* of subparagraph *b*:

“(3) paragraph *b* of section 1029.8.33.2.2 were read as follows:

“(*b*) the amount by which the eligible taxpayer’s share, determined in accordance with section 1029.8.33.7 and without reference to section 1029.8.33.7.1, of the particular qualified expenditure exceeds the aggregate of

i. the quotient obtained by dividing the amount that the taxpayer is deemed to have paid to the Minister for that taxation year under section 1029.8.33.7 in respect of the particular qualified expenditure by the percentage specified in the first paragraph of section 1029.8.33.7 that is applicable in respect of the taxpayer for the taxation year in which the particular fiscal period ended, and

ii. the amounts determined under this section, in respect of the taxpayer and in respect of the particular qualified expenditure, for a taxation year previous to the particular taxation year.”;

History: 2006, c. 36, s. 103; 2007, c. 12, s. 109; 2009, c. 15, s. 197.

Deemed repayment of a benefit or advantage.

1029.6.0.1.8.2. For the purposes of the first paragraph of section 1029.6.0.1.8.1, an amount is deemed to be an amount paid as the repayment of a benefit or advantage by a person or partnership at a particular time, pursuant to a legal obligation, if that amount

(a) reduced a cost, an expenditure or expenses for the purpose of computing an amount that a taxpayer is deemed to have paid to the Minister for a taxation year under a provision of this chapter or is deemed to have overpaid to the Minister, in relation to a taxation year, under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5);

(b) was not obtained by the person or partnership; and

(c) ceased, at that time, to be an amount that the person or partnership may reasonably expect to obtain.

History: 2006, c. 36, s. 103.

Interposed partnership.

1029.6.0.1.8.3. For the purpose of determining the amount that is deemed to have been paid to the Minister for a taxation year under this chapter, in respect of a cost, an expenditure or expenses incurred by a given partnership in a given fiscal period of the given partnership, the following rules apply in respect of a taxpayer if one or more partnerships (each of which is in this section referred to as an “interposed partnership”) are interposed between the taxpayer and the given partnership:

(a) the taxpayer 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 taxpayer's taxation year in which ends the fiscal period of the interposed partnership of which the taxpayer 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 taxpayer is a member, or deemed to be a member under this paragraph, of the interposed partnership described in subparagraph i at the end of the interposed partnership's interposed fiscal period;

(b) for the purpose of determining the taxpayer's share in an amount in respect of the given partnership for the given fiscal period, the agreed proportion in respect of the taxpayer for that fiscal period of the given partnership is deemed to be equal to the product obtained by multiplying the agreed proportion in respect of the taxpayer for the interposed fiscal

period of the interposed partnership of which the taxpayer is directly a member, by

i. if there is only one interposed partnership, the agreed proportion in respect of the interposed partnership for the given partnership's 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 agreed proportion in respect of an interposed partnership for the particular fiscal period of the particular partnership referred to in paragraph a of which the interposed partnership is a member at the end of that particular fiscal period;

(c) if, at a particular time that occurs on or before the day that is six months after the end of the given fiscal period, an interposed partnership has received, is entitled to receive or may reasonably expect to receive, an amount of government assistance or non-government assistance, in respect of the cost, the expenditure or the expenses incurred by the given partnership, or is deemed under this paragraph to have received, to be entitled to receive or to reasonably expect to receive such an amount, each of the members of that interposed partnership at the end of the interposed partnership's interposed fiscal period, is deemed at the particular time to have received, to be entitled to receive or to reasonably expect to receive, as the case may be, the member's share in that amount, which share is equal to the agreed proportion of that amount in respect of that member for that fiscal period of the interposed partnership.

History: 2009, c. 15, s. 198.

Repayment of assistance.

1029.6.0.1.8.4. For the purpose of determining the amount that is deemed to have been paid to the Minister for a taxation year under this chapter, in respect of the repayment, in a fiscal period of a given partnership (in this section referred to as the “fiscal period of repayment”), of an amount of government assistance or non-government assistance that relates to a cost, an expenditure or expenses that have been incurred by the given partnership in a preceding fiscal period of the given partnership, the following rules apply in respect of a taxpayer if one or more partnerships (each of which is in this section referred to as an “interposed partnership”) are interposed between the taxpayer and the given partnership, for the fiscal period of repayment:

(a) the taxpayer 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 taxpayer's taxation year in which ends the fiscal period of the interposed partnership of which the taxpayer 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 taxpayer is a member, or deemed to be a member under this paragraph, of the interposed partnership described in subparagraph i at the end of the interposed partnership's interposed fiscal period;

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

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

ii. if there is more than one interposed partnership, the result obtained by multiplying together all proportions each of which is the agreed proportion in respect of an interposed partnership for the particular fiscal period of the particular partnership referred to in paragraph *a* of which the interposed partnership is a member at the end of that particular fiscal period;

(c) if, at a particular time in the fiscal period of repayment, an interposed partnership pays, or is deemed to pay under this paragraph, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that has been received, in respect of the cost, the expenditure or the expenses incurred by the given partnership, each of the members of that interposed partnership at the end of the interposed partnership's interposed fiscal period, is deemed to have paid, at the particular time, pursuant to a legal obligation and as repayment of an amount of assistance, the member's share in that amount, which share is equal to the agreed proportion of that amount in respect of that member for that fiscal period of the interposed partnership; and

(d) if, at a particular time in the fiscal period of repayment, an amount of government assistance or non-government assistance to be received, in respect of the cost, the expenditure or the expenses incurred by the given partnership, is, or is deemed to be under this paragraph, an amount that has not been received by an interposed partnership and that has ceased to be an amount that it could reasonably expect to receive, the share in that amount of assistance of each of the members of that interposed partnership at the end of the interposed partnership's interposed fiscal period—which share is equal to the agreed proportion of that amount of assistance in respect of that member for that fiscal period of the interposed partnership—is deemed to be, at the particular time, an amount that has not been received by that member and that has ceased to be an amount that that member could reasonably expect to receive.

History: 2009, c. 15, s. 198.

Sections not applicable.

1029.6.0.1.8.5. Sections 1029.6.0.1.8.3 and 1029.6.0.1.8.4 do not apply in respect of a taxpayer, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the taxpayer 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 taxpayer to be deemed to have paid to the Minister for a taxation year under this chapter, an amount greater than the amount that would have been so deemed to have been paid to the Minister for that taxation year, but for that interposition.

History: 2009, c. 15, s. 198.

Replacement or revocation of a document.

1029.6.0.1.8.6. In this chapter, where a Minister other than the Minister of Revenue or a body replaces or revokes a certificate, qualification certificate or other similar document that has been issued to a person or a partnership, 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 its 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 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.

Favourable advance ruling.

Where, for the purposes of a division of this chapter, a document certifies that a favourable advance ruling has been given, any rule set out in the first paragraph according to which the document is deemed to have been issued or not to

have been issued must be considered to be a rule according to which the ruling is deemed to have been given or not to have been given.

Clarification.

It is understood that a document is considered to have never been issued if, under a provision of this chapter, it is null as of the time it was issued or deemed to be issued.

History: 2012, c. 8, s. 182.

Computation of payments.

1029.6.0.1.9. A taxpayer who is deemed, under a provision of this chapter, to have paid an amount to the Minister on the taxpayer's balance-due day for a taxation year, in relation to an amount of government assistance or non-government assistance that is repaid, is deemed, despite the provision and for the purpose of computing the payments that the taxpayer is required to make during the year under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027 or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the aggregate of all amounts each of which is an amount that the taxpayer is deemed, under such a provision, to have paid to the Minister on the taxpayer's balance-due day for the year, in relation to an amount so repaid, exceeds the portion of that aggregate that may reasonably be considered to be deemed to have been paid to the Minister under this section in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under this section, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2006, c. 13, s. 93; 2006, c. 36, s. 104.

1029.6.0.2. *(Repealed).*

History: 1997, c. 14, s. 183; 2003, c. 9, s. 175.

1029.6.0.3. *(Repealed).*

History: 1997, c. 14, s. 183; 2003, c. 9, s. 175.

1029.6.0.4. *(Repealed).*

History: 1997, c. 14, s. 183; 2003, c. 9, s. 175.

1029.6.0.5. *(Repealed).*

History: 1997, c. 14, s. 183; 2003, c. 9, s. 175.

DIVISION I.1.1

ANNUAL ADJUSTMENT OF CERTAIN AMOUNTS

Amounts adjusted annually.

1029.6.0.6. Each of the amounts referred to in the fourth paragraph shall, where it is to be used for a taxation year subsequent to the taxation year 2004, be adjusted annually in such a manner that the amount used for that taxation year is equal to the total of the amount used for the preceding taxation year and the product obtained by multiplying that amount so used by the factor determined by the formula

$$(A / B) - 1.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year preceding that for which an amount is to be adjusted; and

(b) B is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year immediately before the year preceding that for which the amount is to be adjusted.

Factor rounded up.

If the factor determined by the formula in the first paragraph has more than four decimal places, only the first four decimal digits are retained and the fourth is increased by one unit if the fifth is greater than 4.

Interpretation.

The amounts to which the first paragraph refers are

(a) the amount of \$54,790 mentioned in section 1029.8.61.5;

(a.1) the amounts of \$663 and \$542 mentioned in section 1029.8.61.64;

(b) the amount of \$24,105 mentioned in section 1029.8.61.64;

(b.1) the amount of \$50,000 mentioned in section 1029.8.61.76;

(b.2) the amounts of \$663 and \$542 mentioned in section 1029.8.61.85;

(b.3) the amount of \$24,105 mentioned in section 1029.8.61.85;

(b.4) *(subparagraph repealed)*;

- (b.5) the amount of \$1,032 mentioned in section 1029.8.61.93;
- (b.5.0.1) the amount of \$542 mentioned in section 1029.8.61.96.3;
- (b.5.0.2) the amount of \$24,105 mentioned in section 1029.8.61.96.3;
- (b.5.0.3) the amount of \$203 mentioned in subparagraphs i and ii of subparagraph *a* of the second paragraph of section 1029.8.61.104;
- (b.5.0.4) the amounts of \$22,885 and \$37,225 mentioned in subparagraphs i and ii of subparagraph *b* of the second paragraph of section 1029.8.61.104;
- (b.5.1) the amounts between \$50,000 and \$120,000 mentioned in section 1029.8.66.5.1;
- (b.5.2) the amounts between \$25,000 and \$60,000 mentioned in section 1029.8.66.5.2;
- (b.5.3) the amounts of \$97,458 and \$48,729 mentioned in section 1029.8.66.5.3;
- (b.5.4) the amounts between \$50,000 and \$97,458 mentioned in section 1029.8.66.5.4;
- (b.5.5) the amounts between \$25,000 and \$48,729 mentioned in section 1029.8.66.5.5;
- (b.6) the amount of \$130,000 mentioned in section 1029.8.66.6;
- (b.7) the amount of \$40,000 mentioned in section 1029.8.66.11;
- (c) the amount of \$10,482 mentioned in the definition of “eligible child” in section 1029.8.67;
- (c.1) the amounts of \$5,085, \$9,660 and \$13,220 mentioned in the definition of “qualified child care expense” in section 1029.8.67;
- (d) the amounts between \$35,950 and \$160,220 mentioned in section 1029.8.80;
- (e) the amounts between \$35,950 and \$157,545 mentioned in section 1029.8.80.3;
- (f) the amount of \$27,635 mentioned in sections 1029.8.101 and 1029.8.110;
- (g) the amounts of \$110 and \$163, wherever they are mentioned in section 1029.8.105;
- (h) the amounts of \$26 and \$61, wherever they are mentioned in section 1029.8.114;
- (h.1) (*subparagraph repealed*);
- (h.2) (*subparagraph repealed*);
- (h.3) (*subparagraph repealed*);
- (i) (*subparagraph repealed*);
- (j) the amount of \$2,500 mentioned in section 1029.8.117;
- (k) the amount of \$1,000 mentioned in section 1029.8.118;
- (l) the amount of \$18,600 mentioned in section 1029.8.118;
- (m) the amounts of \$37,500 and \$75,000, wherever they are mentioned in paragraphs *a* and *b* of the definition of “increase amount” in the first paragraph of section 1029.8.126; and
- (n) the amount of \$584 mentioned in sections 1029.9.1, 1029.9.2 and 1029.9.2.1.

Presumption.

For the purposes of the first paragraph in respect of an amount to be used for the taxation year 2005, the amounts referred to in subparagraphs *c* to *i* and *l* of the fourth paragraph are deemed to be the amounts used for the taxation year 2004.

History: 2001, c. 51, s. 90; 2005, c. 1, s. 214; 2005, c. 38, s. 235; 2006, c. 36, s. 105; 2009, c. 5, s. 428; 2009, c. 15, s. 199; 2011, c. 1, s. 54; 2011, c. 34, s. 71; 2013, c. 10, s. 98; 2015, c. 21, s. 370; 2015, c. 36, s. 79; 2017, c. 1, s. 268; 2017, c. 29, s. 174; 2019, c. 14, s. 301; 2020, c. 5, s. 214.

1029.6.0.6.1. (Repealed).

History: 2004, c. 21, s. 256; 2005, c. 1, s. 215.

Adjustment for a period beginning on 1 July of a taxation year.

1029.6.0.6.2. Where the amounts listed in the second paragraph are to be used for a particular period of 12 months beginning on 1 July of a taxation year subsequent to the taxation year 2019, they are to be adjusted annually in such a manner that each amount used for the particular period is equal to the total of the amount used for the preceding 12-month period and the product obtained by multiplying that latter amount by the factor determined under section 1029.6.0.6 for the taxation year in which the particular period begins.

Amounts referred to.

The amounts to which the first paragraph refers are

(a) the amounts of \$121, \$139, \$292, \$372, \$567, \$687 and \$1,719, wherever they are mentioned in section 1029.8.116.16;

(b) the amount of \$34,800 mentioned in section 1029.8.116.16; and

(c) the amount of \$21,105 mentioned in section 1029.8.116.34.

History: 2015, c. 36, s. 80; 2019, c. 14, s. 302.

Adjusted amount.

1029.6.0.7. If the amount that results from the adjustment provided for in section 1029.6.0.6, in respect of the amounts mentioned in subparagraphs *a*, *b*, *b.1*, *b.5.0.2*, *b.5.0.4*, *b.6*, *b.7*, *c.1* to *f*, *j*, *l* and *m* of the fourth paragraph of that section, or from the adjustment provided for in section 1029.6.0.6.2, in respect of the amounts mentioned in subparagraphs *b* and *c* of the second paragraph of that section, is not a multiple of \$5, it is to be rounded to the nearest multiple of \$5 or, if it is equidistant from two such multiples, to the higher multiple.

Rounding.

If the amount that results from the adjustment provided for in section 1029.6.0.6, in respect of the amounts mentioned in subparagraphs *a.1*, *b.2*, *b.5*, *b.5.0.1*, *b.5.0.3*, *b.5.1* to *b.5.5*, *c*, *g*, *h*, *k* and *n* of the fourth paragraph of that section, or from the adjustment provided for in section 1029.6.0.6.2, in respect of the amounts mentioned in subparagraph *a* of the second paragraph of that section, is not a multiple of \$1, it is to be rounded to the nearest multiple of \$1 or, if it is equidistant from two such multiples, to the higher multiple.

History: 2001, c. 51, s. 90; 2004, c. 21, s. 257; 2005, c. 1, s. 216; 2005, c. 38, s. 236; 2009, c. 5, s. 429; 2009, c. 15, s. 200; 2011, c. 1, s. 55; 2011, c. 34, s. 72; 2013, c. 10, a. 99; 2015, c. 21, s. 371; 2015, c. 36, s. 81; 2017, c. 1, s. 269; 2017, c. 29, s. 175; 2019, c. 14, s. 303.

DIVISION II CREDIT FOR SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT

Definitions:

1029.6.1. In this division,

“controlled corporation”;

“controlled corporation” means

(a) a corporation that is controlled, directly or indirectly in any manner whatever, by an entity, a person or a combination of entities or persons referred to in any of paragraphs *a* to *e* of section 1029.8.5.3; or

(b) a corporation that, in the 24 months preceding the date on which a contract referred to in any of subparagraphs *b* to *i* of the first paragraph of section 1029.7 or 1029.8 is entered into or at a later time determined by the Minister, is controlled, directly or indirectly in any manner whatever, by an entity, a person or a combination of entities or persons referred to in any of paragraphs *a* to *e* of section 1029.8.5.3;

“tax-exempt corporation”;

“tax-exempt corporation” means a corporation that

(a) is exempt from tax under Book VIII;

(b) would be exempt from tax under section 985 but for section 192; or

(c) is a controlled corporation or a corporation related to a controlled corporation;

“tax-exempt taxpayer”.

“tax-exempt taxpayer” means a tax-exempt corporation or a trust one of the capital or income beneficiaries of which is a tax-exempt corporation or a person exempt from tax by virtue of Book VIII of this Part.

History: 1993, c. 19, s. 91; 1995, c. 63, s. 119; 1997, c. 3, s. 71; 2000, c. 5, s. 246; 2004, c. 21, s. 258; 2007, c. 12, s. 110; 2019, c. 14, s. 304.

Research and development carried out in Québec.

1029.7. A taxpayer, other than a tax-exempt taxpayer, who carries on a business in Canada, who undertakes scientific research and experimental development related to a business of the taxpayer, in Québec, or causes such research and development to be undertaken in Québec on the taxpayer’s behalf as part of a contract, and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxation year in which the research and development was undertaken is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer’s balance-due day for that year, on account of the taxpayer’s tax payable for that year under this Part, an amount equal to 14% of the aggregate of

(a) the wages paid by the taxpayer in respect of the research and development undertaken in the year to his employees of an establishment situated in Québec;

(b) where the taxpayer has not made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid under the contract by the taxpayer in respect of the research and development undertaken on the taxpayer’s behalf in the year to a person or partnership with whom the taxpayer was not dealing at arm’s length at the time the contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to wages paid to employees of an establishment of that person or partnership situated in Québec, or that could be so attributed if that person or partnership had such employees;

(b.1) where the taxpayer has made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid under the contract by the taxpayer in respect of the research and development undertaken on the taxpayer’s behalf in the year to a person or partnership with whom the taxpayer was not dealing at arm’s

length at the time the contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to that portion of an expenditure incurred for salary or wages of employees of an establishment of that person or partnership situated in Québec who are directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employees thereon, and, for this purpose, where the employees spend all or substantially all of their working time on such scientific research and experimental development, that portion of the expenditure is deemed to be equal to the amount of the expenditure, or that could be so attributed if that person or partnership had such employees;

(c) one-half of that portion of the consideration paid under the contract by the taxpayer to a person or partnership who has an establishment situated in Québec and with whom the taxpayer was dealing at arm's length at the time the contract was entered into,

i. that may reasonably be attributed to such research and development undertaken on the taxpayer's behalf in the year by the employees of an establishment of that person or partnership situated in Québec or that could be so attributed if that person or partnership had such employees, or

ii. that may reasonably be attributed to such research and development undertaken on the taxpayer's behalf in Québec in the year by an individual, other than a trust, who is, if that person is a corporation, a shareholder of that person or who is a member of that partnership;

(d) where the taxpayer has not made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid by the taxpayer under a particular contract, other than a contract by which the taxpayer causes scientific research and experimental development to be undertaken on the taxpayer's behalf, for work undertaken in the year, relating to the research and development undertaken in any taxation year, to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that person or partnership situated in Québec, or that could be so attributed if that person or partnership had such employees;

(d.1) where the taxpayer has made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid by the taxpayer under a particular contract, other than a contract by which the taxpayer causes scientific research and experimental development to be undertaken on the taxpayer's behalf, for work undertaken in the year, relating to the research and development undertaken in any taxation year, to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into and

who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that person or partnership situated in Québec, or that could be so attributed if that person or partnership had such employees;

(e) one-half of that portion of the consideration paid by the taxpayer under a particular contract, other than a contract by which the taxpayer causes scientific research and experimental development to be undertaken on the taxpayer's behalf, for work relating to such research and development undertaken in any taxation year, to a person or partnership who has an establishment situated in Québec and with whom the taxpayer was dealing at arm's length at the time the particular contract was entered into,

i. that may reasonably be attributed to work undertaken in the year by the employees of an establishment of that person or partnership situated in Québec or that could be so attributed if that person or partnership had such employees, or

ii. that may reasonably be attributed to work undertaken in Québec in the year by an individual, other than a trust, who is, if that person is a corporation, a shareholder of that person or who is a member of that partnership;

(f) where the taxpayer has not made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid under the contract by the taxpayer in respect of the research and development undertaken on the taxpayer's behalf in the year to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the contract was entered into, and paid again by that person or partnership, under a particular contract, in respect of that research and development, to another person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to wages paid to employees of an establishment of that other person or partnership situated in Québec, or that could be so attributed if the other person or partnership had such employees;

(f.1) where the taxpayer has made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid under the contract by the taxpayer in respect of the research and development undertaken on the taxpayer's behalf in the year to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the contract was entered into, and paid again by that person or partnership, under a particular contract, in respect of that research and development, to another person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to that portion of an expenditure incurred for salary or wages

of employees of an establishment of that other person or partnership situated in Québec who are directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employees thereon, and, for this purpose, where the employees spend all or substantially all their working time on such scientific research and experimental development, that portion of the expenditure is deemed to be equal to the amount of the expenditure, or that could be so attributed if the other person or partnership had such employees;

(g) one-half of that portion of the consideration paid under the contract by the taxpayer to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the contract was entered into, and paid again by that person or partnership, under a particular contract, to another person or partnership who has an establishment situated in Québec and with whom the taxpayer was dealing at arm's length at the time the particular contract was entered into,

i. that may reasonably be attributed to such research and development undertaken on the taxpayer's behalf in the year by the employees of an establishment of that other person or partnership situated in Québec or that could be so attributed if that other person or partnership had such employees, or

ii. that may reasonably be attributed to such research and development undertaken on the taxpayer's behalf in Québec in the year by an individual, other than a trust, who is, if that other person is a corporation, a shareholder of that other person or who is a member of that other partnership;

(h) where the taxpayer has not made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid by the taxpayer under a particular contract, other than a contract by which the taxpayer causes scientific research and experimental development to be undertaken on the taxpayer's behalf, for work undertaken in the year, relating to the research and development undertaken in any taxation year, to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into, and paid again by that person or partnership, under another particular contract, to another person or partnership with whom the taxpayer was not dealing at arm's length at the time the other particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that other person or partnership situated in Québec, or that could be so attributed if the other person or partnership had such employees;

(h.1) where the taxpayer has made an election under subparagraph *c* of the first paragraph of section 230 for the year, that portion of the consideration paid by the taxpayer under a particular contract, other than a contract by which the taxpayer causes scientific research and experimental development to be undertaken on the taxpayer's behalf, for

work undertaken in the year, relating to the research and development undertaken in any taxation year, to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into, and paid again by that person or partnership, under another particular contract, to another person or partnership with whom the taxpayer was not dealing at arm's length at the time the other particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that other person or partnership situated in Québec, or that could be so attributed if the other person or partnership had such employees; and

(i) one-half of that portion of the consideration paid by the taxpayer under a particular contract, other than a contract by which the taxpayer causes scientific research and experimental development to be undertaken on the taxpayer's behalf, for work relating to such research and development undertaken in any taxation year, to a person or partnership with whom the taxpayer was not dealing at arm's length at the time the particular contract was entered into, and paid again by that person or partnership, under another particular contract, to another person or partnership who has an establishment situated in Québec and with whom the taxpayer was dealing at arm's length at the time the other particular contract was entered into,

i. that may reasonably be attributed to the work undertaken in the year by the employees of an establishment of that other person or partnership situated in Québec or that could be so attributed if that other person or partnership had such employees, or

ii. that may reasonably be attributed to the work undertaken in Québec in the year by an individual, other than a trust, who is, if that other person is a corporation, a shareholder of that other person or who is a member of that other partnership.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Wages and consideration.

For the purposes of the first paragraph, the wages and consideration paid by the taxpayer referred to therein include only the wages and consideration that

(a) constitute, for the taxpayer, an expenditure referred to in subsection 1 of section 222, determined, in the case of subparagraphs *c*, *e*, *g* and *i* of that first paragraph, without reference to section 230.0.0.5.1; and

(b) do not constitute

i. all or part of an amount that can reasonably be considered to be an expenditure in respect of scientific research and experimental development made in Québec by virtue of a university research contract within the meaning of paragraph *b* of section 1029.8.1 or of an eligible research contract within the meaning of paragraph *a.2* of the said section, in respect of which section 1029.8.6 applies,

ii. all or part of an amount that can reasonably be considered to be an expenditure in respect of scientific research and experimental development made in Québec by virtue of an agreement in respect of which section 1029.8.10 or 1029.8.16.1.4 applies,

iii. *(subparagraph repealed)*,

iv. *(subparagraph repealed)*,

v. an expenditure described in section 230.0.0.2;

vi. an expenditure specified by the taxpayer for the purposes of clause A of subparagraph ii of paragraph *a* of subsection 2 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), where the taxpayer is a corporation;

vii. an expenditure of a current nature incurred by or on behalf of a taxpayer in respect of the general administration or management of a business, including

(1) the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific research and experimental development, except to the extent that such expenditure is a prescribed expenditure,

(2) a legal or accounting fee,

(3) an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179,

(4) an entertainment expense,

(5) an advertising or selling expense,

(6) a conference or convention expense,

(7) a due or fee in respect of membership in a scientific or technical organization, and

(8) a fine or penalty;

viii. an expenditure of a current nature incurred by or on behalf of a taxpayer for the maintenance and upkeep of premises, facilities or equipment to the extent that the expenditure is not attributable to the prosecution of scientific research and experimental development;

ix. *(subparagraph repealed)*;

x. *(subparagraph repealed)*;

xi. an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;

xii. an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.11 or 752.0.10.1 to 752.0.10.26 in computing taxable income or tax payable under this Part, as the case may be;

xiii. an expenditure, to the extent that the taxpayer having incurred it or, where applicable, the person or partnership having incurred it on the taxpayer's behalf has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than

(1) the State or Her Majesty in right of Canada or a province, other than Québec,

(2) a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

(3) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or

(4) a municipality in Canada or a municipal or public body performing a function of government in Canada; and

xiv. an expenditure, to the extent that the taxpayer having incurred it or, where applicable, the person or partnership having incurred it on the taxpayer's behalf has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible in computing the person's taxable income earned in Canada for a taxation year.

Rule applicable.

For the purposes of the first paragraph, that portion of the consideration paid by the taxpayer under a particular contract referred to in any of subparagraphs *d*, *e*, *h* and *i* of that paragraph shall be reduced by the amount of the consideration for the disposition of property to the taxpayer, other than a property resulting from scientific research and experimental development.

Scientific research and experimental development work.

Where a taxpayer paid a consideration under a particular contract referred to in any of subparagraphs *d*, *d.1*, *e*, *h*, *h.1* and *i* of the first paragraph for work undertaken in a taxation year, the portion of that paragraph before subparagraph *a* is to be read, for the purposes of any of those subparagraphs for the year, as if “for the taxation year in which the research and development was undertaken” were replaced by “for the taxation year in which work relating to such research and development was undertaken”.

“wages”.

In this section, “wages” means the income computed under Chapters I and II of Title II of Book III.

History: 1983, c. 44, s. 43; 1987, c. 67, s. 183; 1988, c. 4, s. 123; 1988, c. 18, s. 113; 1989, c. 5, s. 200; 1990, c. 7, s. 148; 1991, c. 8, s. 76; 1992, c. 1, s. 162; 1993, c. 19, s. 92; 1993, c. 64, s. 138; 1995, c. 1, s. 119; 1995, c. 63, s. 120; 1997, c. 3, s. 71; 1997, c. 14, s. 184; 1997, c. 31, s. 143; 1999, c. 83, s. 168; 2000, c. 39, s. 123; 2001, c. 53, s. 217; 2002, c. 40, s. 103; 2003, c. 9, s. 176; 2004, c. 21, s. 259; 2005, c. 1, s. 217; 2006, c. 13, s. 94; 2007, c. 12, s. 111; 2009, c. 5, s. 430; 2011, c. 1, s. 56; 2012, c. 8, s. 183; 2015, c. 21, s. 372; 2017, c. 1, s. 270.

Interpretation Bulletins: IMP. 1029.7-1; IMP. 1029.7.2-1; IMP. 1029.8.17-1/R1.

Biopharmaceutical corporation.

1029.7.0.1. Where the taxpayer referred to in section 1029.7 is a biopharmaceutical corporation that holds, for the taxation year referred to in that section, a certificate issued in accordance with Chapter XV of Schedule A to the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) and the taxpayer encloses, with the fiscal return the taxpayer is required to file for the year under section 1000, a copy of that certificate, the percentage of 14% mentioned in section 1029.7 is to be replaced by a percentage of 22%, to the extent that the percentage is applied to the aggregate determined under the second paragraph.

Amount determined.

The aggregate to which the first paragraph refers is equal to the aggregate referred to in the first paragraph of section 1029.7 for the year, to the extent that the aggregate includes only the amount of the wages or of a portion of a

consideration paid after 20 November 2012 and before 4 June 2015 for scientific research and experimental development work carried on in that period.

History: 2015, c. 21, s. 373.

1029.7.1. (Repealed).

History: 1989, c. 5, s. 201; 1995, c. 63, s. 121.

Canadian-controlled private corporation with assets under \$75,000,000.

1029.7.2. Subject to section 1029.7.2.1, where the taxpayer referred to in section 1029.7 is a corporation that has been, throughout the taxation year referred to in that section, a corporation that is not controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada and the assets 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, for its preceding taxation year or, where the corporation is in its first fiscal period, at the beginning of its first fiscal period, were less than \$75,000,000, the percentage of 14% mentioned in the first paragraph of that section is to be replaced by the percentage determined by the following formula, to the extent that the percentage is applied to the aggregate referred to in the first paragraph of section 1029.7 which does not exceed the expenditure limit of the corporation for the year:

$$30\% - \{[(A - \$50,000,000) \times 16\%] / \$25,000,000\}.$$

Interpretation.

In the formula provided for in the first paragraph, A is the greater of \$50,000,000 and the assets of the corporation determined as provided in this division.

Cooperative.

Where the corporation referred to in the first paragraph is a cooperative, the first paragraph shall be read as if the reference therein to “submitted to the shareholders” were a reference to “submitted to the members”.

History: 1989, c. 5, s. 201; 1990, c. 7, s. 149; 1995, c. 1, s. 120 [amended by 1997, c. 31, s. 151]; 1995, c. 63, s. 122 [amended by 1997, c. 31, s. 152]; 1997, c. 3, s. 71; 1997, c. 14, s. 185; 1997, c. 31, s. 100; 1997, c. 31, s. 151; 1997, c. 31, s. 152; 2000, c. 39, s. 124; 2004, c. 21, s. 260; 2006, c. 13, s. 95; 2007, c. 12, s. 112; 2015, c. 21, s. 374.

Interpretation Bulletins: IMP. 1029.7.2-1.

Canadian-controlled biopharmaceutical corporation with assets under \$75,000,000.

1029.7.2.1. Where the taxpayer referred to in section 1029.7 is a corporation referred to in section 1029.7.0.1 that

has been, throughout the taxation year referred to in section 1029.7, a corporation that is not controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada and the assets 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, for its preceding taxation year or, where the corporation is in its first fiscal period, at the beginning of its first fiscal period, were less than \$75,000,000, the percentage of 22% mentioned in the first paragraph of section 1029.7.0.1 is to be replaced by the percentage determined by the following formula, to the extent that the percentage is applied to the aggregate determined under the second paragraph of section 1029.7.0.1 which does not exceed the expenditure limit of the corporation for the year:

$$30\% - \{[(A - \$50,000,000) \times 8\%] / \$25,000,000\}.$$

Interpretation.

In the formula in the first paragraph, A is the greater of \$50,000,000 and the assets of the corporation determined as provided in this division.

Cooperative.

Where the corporation referred to in the first paragraph is a cooperative, the first paragraph is to be read as if “submitted to the shareholders” were replaced by “submitted to the members”.

History: 2015, c. 21, s. 375.

Computation of a corporation’s assets.

1029.7.3. For the purposes of sections 1029.7.2 and 1029.7.2.1, in computing the assets of a corporation at the time referred to therein, the amount representing the surplus reassessment of its property and the amount of its incorporeal assets shall be subtracted, to the extent that the amount indicated in their respect exceeds the expenditure made in their respect.

Expenditure deemed nil.

For the purposes of the first paragraph, where all or part of an expenditure made in respect of incorporeal assets consists of shares of the corporation’s or cooperative’s capital stock, all or the part of the expenditure, as the case may be, is deemed to be nil.

History: 1989, c. 5, s. 201; 1995, c. 63, s. 123; 1997, c. 3, s. 71; 1997, c. 14, s. 186; 2005, c. 1, s. 218; 2015, c. 21, s. 376.

Interpretation Bulletins: IMP. 1029.7.2-1.

Assets of associated corporation.

1029.7.4. For the purposes of sections 1029.7.2 and 1029.7.2.1, the assets of a corporation that is associated in a taxation year with one or more other corporations is equal to the amount by which the aggregate of the assets of the corporation and of each corporation associated with it, as determined under sections 1029.7.2 to 1029.7.3, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

History: 1989, c. 5, s. 201; 1997, c. 3, s. 55; 2015, c. 21, s. 377.

Interpretation Bulletins: IMP. 1029.7.2-1.

1029.7.5. (Repealed).

History: 1989, c. 5, s. 201; 1997, c. 3, s. 71; 1997, c. 14, s. 187.

1029.7.5.1. (Repealed).

History: 1995, c. 63, s. 124; 1997, c. 3, s. 71; 1997, c. 14, s. 188.

Interpretation Bulletins: IMP. 1029.7.2-1.

Reduction of assets.

1029.7.6. For the purposes of sections 1029.7.2 to 1029.7.4, where a corporation or a corporation associated with it reduces its assets by any transaction in a taxation year and, but for that reduction, the corporation would not be referred to in section 1029.7.2 or 1029.7.2.1, the assets are deemed not to have been so reduced unless the Minister decides otherwise.

History: 1989, c. 5, s. 201; 1995, c. 63, s. 125; 1997, c. 3, s. 71; 1997, c. 14, s. 189; 2015, c. 21, s. 378.

Interpretation Bulletins: IMP. 1029.7.2-1.

Expenditure limit.

1029.7.7. For the purposes of sections 1029.7.2 and 1029.7.2.1, the expenditure limit of a particular corporation for a taxation year equals \$3,000,000, unless the particular corporation is associated in the year with one or more other corporations that are not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada, in which case, subject to sections 1029.7.8 to 1029.7.10, its expenditure limit for the year is nil.

History: 1989, c. 5, s. 201; 1990, c. 7, s. 150; 1997, c. 3, s. 71; 2004, c. 21, s. 261; 2009, c. 15, s. 201; 2015, c. 21, s. 379.

Interpretation Bulletins: IMP. 1029.7.2-1.

Amount allocated by agreement.

1029.7.8. Notwithstanding section 1029.7.7, where all of the corporations that are not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada and that are associated with each other in a taxation year have filed with the Minister, in prescribed form, an agreement whereby, for the purposes of sections 1029.7.2 and 1029.7.2.1, they allocate an amount to one or more of them for the taxation year and the amount or the aggregate of

the amounts so allocated, as the case may be, equals \$3,000,000, the expenditure limit for the year of each of the corporations is equal to the amount so allocated to it.

History: 1989, c. 5, s. 201; 1990, c. 7, s. 150; 1997, c. 3, s. 71; 2004, c. 21, s. 262; 2009, c. 15, s. 202; 2015, c. 21, s. 380.

Interpretation Bulletins: IMP. 1029.7.2-1.

Amount allocated by the Minister.

1029.7.9. If any of the corporations that are not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada and that are associated with each other in a taxation year fails to file with the Minister the agreement referred to in section 1029.7.8 within 30 days after notice in writing by the Minister is forwarded to any of them that such an agreement is required in determining the amount deemed to have been paid to the Minister on account of the corporation's tax payable for the year under this Part, the Minister shall, for the purposes of sections 1029.7.2 and 1029.7.2.1, allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, shall equal \$3,000,000, and in any such case, despite section 1029.7.7, the expenditure limit for the year of each of the corporations equals the amount so allocated to it.

History: 1989, c. 5, s. 201; 1990, c. 7, s. 150; 1997, c. 3, s. 71; 2004, c. 21, s. 263; 2006, c. 36, s. 106; 2009, c. 15, s. 203; 2015, c. 21, s. 381.

Interpretation Bulletins: IMP. 1029.7.2-1.

Amount replaced.

1029.7.9.1. For the purposes of sections 1029.7.7 to 1029.7.9, if the taxation year of the particular corporation referred to in section 1029.7.7 includes 13 March 2008, the amount of \$3,000,000 mentioned in each of those sections is to be replaced by an amount equal to the aggregate of

(a) the amount obtained by multiplying \$2,000,000 by the proportion that the number of days in the taxation year that precede 14 March 2008 is of the number of days in the taxation year; and

(b) the amount obtained by multiplying \$3,000,000 by the proportion that the number of days in the taxation year that follow 13 March 2008 is of the number of days in the taxation year.

History: 2009, c. 15, s. 204.

Change in the expenditure limit.

1029.7.9.2. For the purpose of determining the amount deemed to have been paid to the Minister by a biopharmaceutical corporation referred to in section 1029.7.0.1 under the first paragraph of section 1029.7, in respect of the amount of wages or a portion of a consideration referred to in that first paragraph (in this section referred to as the "particular remuneration") that is paid by the corporation in a taxation year,

(a) the corporation's expenditure limit for its taxation year that includes 20 November 2012 is deemed to be equal,

i. in respect of the portion of the particular remuneration paid by the corporation in the taxation year but after that date, to the amount obtained by multiplying the corporation's expenditure limit, determined without reference to this section, by the proportion that the portion of the particular remuneration paid by the corporation in the taxation year but after 20 November 2012 is of the particular remuneration paid by the corporation in the taxation year, and

ii. in respect of the portion of the particular remuneration paid by the corporation in the taxation year but before 21 November 2012, to the amount by which the corporation's expenditure limit, determined without reference to this section, exceeds the amount determined under subparagraph i; and

(b) the corporation's expenditure limit for its taxation year that includes 4 June 2014 is deemed to be equal, in respect of the portion of the particular remuneration paid by the corporation in the taxation year but after that date, to the amount by which the corporation's expenditure limit, determined without reference to this section, exceeds the portion of the particular remuneration paid by the corporation in the taxation year but before 5 June 2014 and that, for the purpose of determining the portion of the amount deemed to have been paid to the Minister under the first paragraph of section 1029.7 in its respect, is referred to in that first paragraph.

History: 2015, c. 21, s. 382.

Determination of expenditure limit in certain cases.

1029.7.10. Notwithstanding any other provision of this division

(a) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada, called "the first corporation" in this section, has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another such corporation that has a taxation year ending in that calendar year, the expenditure limit of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to paragraph *b*, an amount equal to its expenditure limit for the first such taxation year determined without reference to paragraph *b*; and

(b) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada has a taxation year that is less than 51 weeks, its expenditure limit for the year is that proportion of its expenditure limit for the year determined without reference to this paragraph that the number of days in the year is of 365.

History: 1989, c. 5, s. 201; 1990, c. 7, s. 151; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 1029.7.2-1.**Partial payment deemed made.**

1029.8. Where a partnership carries on a business in Canada and undertakes scientific research and experimental development related to a business of the partnership, in Québec, or causes such research and development to be undertaken in Québec on its behalf as part of a contract, every taxpayer, other than a tax-exempt taxpayer, who is a member of the partnership at the end of a fiscal period of the partnership in which the research and development was undertaken, who is not a specified member of the partnership in that fiscal period and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxpayer's taxation year in which the fiscal period ends, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer's balance-due day for that year, on account of the taxpayer's tax payable for that year under this Part, 14% of the taxpayer's share of an amount equal to the aggregate of

(a) the wages paid by the partnership in respect of the research and development undertaken in that fiscal period to its employees of an establishment situated in Québec;

(b) where the partnership has not made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid under the contract by the partnership in respect of the research and development undertaken on its behalf in that fiscal period to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to wages paid to employees of an establishment of that person or other partnership situated in Québec, or that could be so attributed if the person or the other partnership had such employees;

(b.1) where the partnership has made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid under the contract by the partnership in respect of the research and development undertaken on its behalf in that fiscal period to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to that portion of an expenditure incurred for salary or wages of employees of an establishment of that person or other partnership situated in Québec who are directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employees thereon, and, for this purpose, where the employees spend all or substantially all of their working time on such scientific

research and experimental development, that portion of the expenditure is deemed to be equal to the amount of the expenditure, or that could be so attributed if the person or the other partnership had such employees;

(c) one-half of that portion of the consideration paid under the contract by the partnership to a person or another partnership who has an establishment situated in Québec and with whom all the members of the partnership were dealing at arm's length at the time the contract was entered into,

i. that may reasonably be attributed to such research and development undertaken on its behalf in that fiscal period by the employees of an establishment of that person or other partnership situated in Québec or that could be so attributed if that person or other partnership had such employees, or

ii. that may reasonably be attributed to such research and development undertaken on its behalf in Québec in that fiscal period by an individual, other than a trust, who is, if that person is a corporation, a shareholder of that person or who is a member of that other partnership;

(d) where the partnership has not made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid by the partnership under a particular contract, other than a contract by which the partnership causes scientific research and experimental development to be undertaken on its behalf, for work undertaken in the fiscal period, relating to the research and development undertaken in any fiscal period, to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that person or other partnership situated in Québec, or that could be so attributed if the person or the other partnership had such employees;

(d.1) where the partnership has made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid by the partnership under a particular contract, other than a contract by which the partnership causes scientific research and experimental development to be undertaken on its behalf, for work undertaken in the fiscal period, relating to the research and development undertaken in any fiscal period, to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that person or other partnership situated in Québec, or that could be so attributed if the person or the other partnership had such employees;

(e) one-half of that portion of the consideration paid by the partnership under a particular contract, other than a contract

by which the partnership causes scientific research and experimental development to be undertaken on its behalf, for work relating to such research and development undertaken in any fiscal period, to a person or another partnership who has an establishment situated in Québec and with whom all the members of the partnership were dealing at arm's length at the time the particular contract was entered into,

i. that may reasonably be attributed to work undertaken in that fiscal period by the employees of an establishment of that person or other partnership situated in Québec or that could be so attributed if that person or other partnership had such employees, or

ii. that may reasonably be attributed to work undertaken in Québec in that fiscal period by an individual, other than a trust, who is, if that person is a corporation, a shareholder of that person or who is a member of that other partnership;

(f) where the partnership has not made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid under the contract by the partnership in respect of the research and development undertaken on its behalf in that fiscal period to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the contract was entered into, and paid again by that person or that other partnership, under a particular contract, in respect of that research and development, to another person or partnership with whom a member of the partnership was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to wages paid to employees of an establishment of that other person or partnership situated in Québec, or that could be so attributed if the other person or partnership had such employees;

(f.1) where the partnership has made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid under the contract by the partnership in respect of the research and development undertaken on its behalf in the fiscal period to a person or partnership with whom a member of the partnership was not dealing at arm's length at the time the contract was entered into, and paid again by that person or that other partnership, under a particular contract, in respect of that research and development, to another person or partnership with whom a member of the partnership was not dealing at arm's length at the time the particular contract was entered into and who has undertaken all or part of the research and development, that may reasonably be attributed to that portion of an expenditure incurred for salary or wages of employees of an establishment of that other person or partnership situated in Québec who are directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employees thereon, and, for this purpose, where the employees spend all or

substantially all their working time on such scientific research and experimental development, that portion of the expenditure is deemed to be equal to the amount of the expenditure, or that could be so attributed if the other person or partnership had such employees;

(g) one-half of that portion of the consideration paid under the contract by the partnership to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the contract was entered into, and paid again by that person or that other partnership, under a particular contract, to another person or partnership who has an establishment situated in Québec and with whom all the members of the partnership were dealing at arm's length at the time the particular contract was entered into,

i. that may reasonably be attributed to such research and development undertaken on its behalf in that fiscal period by the employees of an establishment of that other person or partnership situated in Québec or that could be so attributed if that other person or partnership had such employees, or

ii. that may reasonably be attributed to such research and development undertaken on its behalf in Québec in the year by an individual, other than a trust, who is, if that other person is a corporation, a shareholder of that other person or who is a member of that other partnership;

(h) where the partnership has not made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid by the partnership under a particular contract, other than a contract by which the partnership causes scientific research and experimental development to be undertaken on its behalf, for work undertaken in the fiscal period, relating to the research and development undertaken in any fiscal period, to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the particular contract was entered into, and paid again by that person or that other partnership, under another particular contract, to another person or partnership with whom a member of the partnership was not dealing at arm's length at the time the other particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that other person or partnership situated in Québec, or that could be so attributed if the other person or partnership had such employees;

(h.1) where the partnership has made an election under subparagraph *c* of the first paragraph of section 230 for the fiscal period, that portion of the consideration paid by the partnership under a particular contract, other than a contract by which the partnership causes scientific research and experimental development to be undertaken on its behalf, for work undertaken in the fiscal period, relating to the research and development undertaken in any fiscal period, to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the

particular contract was entered into, and paid again by that person or that other partnership, under another particular contract, to another person or partnership with whom a member of the partnership was not dealing at arm's length at the time the other particular contract was entered into and who has undertaken all or part of the work, that may reasonably be attributed to wages paid to employees of an establishment of that other person or partnership situated in Québec, or that could be so attributed if the other person or partnership had such employees; and

(i) one-half of that portion of the consideration paid by the partnership under a particular contract, other than a contract by which the partnership causes scientific research and experimental development to be undertaken on its behalf, for work relating to such research and development undertaken in any fiscal period, to a person or another partnership with whom a member of the partnership was not dealing at arm's length at the time the particular contract was entered into, and paid again by that person or that other partnership, under another particular contract, to another person or partnership who has an establishment situated in Québec and with whom all the members of the partnership were dealing at arm's length at the time the other particular contract was entered into,

i. that may reasonably be attributed to the work undertaken in that fiscal period by the employees of an establishment of that other person or partnership situated in Québec or that could be so attributed if that other person or partnership had such employees, or

ii. that may reasonably be attributed to the work undertaken in Québec in that fiscal period by an individual, other than a trust, who is, if that other person is a corporation, a shareholder of that other person or who is a member of that other partnership.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Wages and consideration.

For the purposes of the first paragraph, the wages and consideration paid by a partnership include only the wages and consideration that

(a) constitute, for the partnership, an expenditure referred to in subsection 1 of section 222, determined, in the case of subparagraphs *c*, *e*, *g* and *i* of that first paragraph, without reference to section 230.0.0.5.1; and

(b) do not constitute

i. all or part of an amount that can reasonably be considered to be an expenditure in respect of scientific research and experimental development made in Québec by virtue of a university research contract within the meaning of paragraph *b* of section 1029.8.1 or of an eligible research contract within the meaning of paragraph *a.2* of the said section, in respect of which section 1029.8.7 applies,

ii. all or part of an amount that can reasonably be considered to be an expenditure in respect of scientific research and experimental development made in Québec by virtue of an agreement in respect of which section 1029.8.11 or 1029.8.16.1.5 applies,

iii. *(subparagraph repealed)*,

iv. *(subparagraph repealed)*,

v. an expenditure described in section 230.0.0.2;

vi. an expenditure of a current nature incurred by or on behalf of a partnership in respect of the general administration or management of a business, including

(1) the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific research and experimental development, except to the extent that such expenditure is a prescribed expenditure,

(2) a legal or accounting fee,

(3) an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179,

(4) an entertainment expense,

(5) an advertising or selling expense,

(6) a conference or convention expense,

- (7) a due or fee in respect of membership in a scientific or technical organization, and
- (8) a fine or penalty;
- vii. an expenditure of a current nature incurred by or on behalf of a partnership for the maintenance and upkeep of premises, facilities or equipment to the extent that the expenditure is not attributable to the prosecution of scientific research and experimental development;
- viii. *(subparagraph repealed)*;
- ix. *(subparagraph repealed)*;
- x. an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;
- xi. an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.11 or 752.0.10.1 to 752.0.10.26 in computing taxable income or tax payable under this Part, as the case may be;
- xii. an expenditure, to the extent that the partnership having incurred it or, where applicable, the person or another partnership having incurred it on the partnership's behalf has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than
- (1) the State or Her Majesty in right of Canada or a province, other than Québec,
- (2) a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,
- (3) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or
- (4) a municipality in Canada or a municipal or public body performing a function of government in Canada; or
- xiii. an expenditure, to the extent that the partnership having incurred it or, where applicable, the person or another partnership having incurred it on the partnership's behalf has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible by the person in computing taxable income earned in Canada for a taxation year.

Rule applicable.

For the purposes of the first paragraph, that portion of the consideration paid by the partnership under a particular

contract referred to in any of subparagraphs *d*, *e*, *h* and *i* of that paragraph shall be reduced by the amount of the consideration for the disposition of property to it, other than a property resulting from scientific research and experimental development.

Taxpayer's share.

For the purposes of the first paragraph, a taxpayer's share of an amount is equal to the agreed proportion of the amount in respect of the taxpayer for the partnership's fiscal period that ends in the taxpayer's taxation year.

Scientific research and experimental development work.

Where a partnership paid a consideration under a particular contract referred to in any of subparagraphs *d*, *d.1*, *e*, *h*, *h.1* and *i* of the first paragraph for work undertaken in a fiscal period, the portion of that paragraph before subparagraph *a* is to be read, for the purposes of any of those subparagraphs for the fiscal period, as if "at the end of a fiscal period of the partnership in which the research and development was undertaken" were replaced by "at the end of a fiscal period of the partnership in which work relating to such research and development was undertaken".

Meaning of "wages".

For the purposes of this section, "wages" means the income computed pursuant to Chapters I and II of Title II of Book III.

History: 1984, c. 35, s. 29; 1987, c. 67, s. 184; 1988, c. 4, s. 124; 1988, c. 18, s. 114; 1989, c. 5, s. 202; 1990, c. 7, s. 152; 1992, c. 1, s. 163; 1993, c. 19, s. 93; 1993, c. 64, s. 139; 1995, c. 1, s. 121; 1995, c. 63, s. 126; 1997, c. 3, s. 71; 1997, c. 14, s. 190; 1997, c. 31, s. 143; 1999, c. 83, s. 169; 2000, c. 39, s. 125; 2001, c. 53, s. 218; 2002, c. 40, s. 104; 2003, c. 9, s. 177; 2004, c. 21, s. 264; 2005, c. 1, s. 219; 2006, c. 13, s. 96; 2007, c. 12, s. 113; 2009, c. 5, s. 431; 2009, c. 15, s. 205; 2011, c. 1, s. 57; 2012, c. 8, s. 184; 2015, c. 21, s. 383; 2017, c. 1, s. 271.

Interpretation Bulletins: IMP. 1029.7-1; IMP. 1029.8.17-1/R1.

Return filed with the Minister.

1029.8.0.0.1. A taxpayer may be deemed to have paid to the Minister an amount on account of the taxpayer's tax payable for a taxation year under section 1029.7 or 1029.8 in respect of an expenditure that is a portion of a consideration referred to in any of subparagraphs *c*, *e*, *g* and *i* of the first paragraph of that section, only if, within the time limit provided for in that paragraph that applies to the taxpayer for the year, the taxpayer files with the Minister the prescribed form referred to in the first paragraph of section 1029.6.0.1.2 and containing the following information:

(a) in the case of an expenditure that is a portion of a consideration referred to in subparagraph *c* or *e* of the first paragraph of section 1029.7 or 1029.8, as the case may be,

i. the name of the person or partnership referred to in that subparagraph with whom the taxpayer or the partnership of which the taxpayer is a member has entered into the contract or particular contract, as the case may be, referred to in that subparagraph, the registration number assigned to that person or partnership in accordance with the Act respecting the Québec sales tax (chapter T-0.1) and, where that person is an individual, that person's Social Insurance Number,

ii. the total amount of the consideration provided for in the contract or particular contract, as the case may be, referred to in that subparagraph in respect of the scientific research and experimental development or the work relating to that scientific research and experimental development, as the case may be, referred to in that section, and

iii. the amount of the portion of the consideration provided for in the contract or particular contract, as the case may be, referred to in that subparagraph that is paid in the year or, where the taxpayer is a member of a partnership, in the fiscal period of the partnership ending in the year, in respect of the scientific research and experimental development or the work relating to that scientific research and experimental development, as the case may be, referred to in that section;

(b) in the case of an expenditure that is a portion of a consideration referred to in subparagraph *g* of the first paragraph of section 1029.7 or 1029.8, as the case may be,

i. the name of the other person or partnership referred to in that subparagraph with whom the person or partnership with whom a contract has been entered into by the taxpayer or the partnership of which the taxpayer is a member has entered into the particular contract referred to in that subparagraph, the registration number assigned to that other person or partnership in accordance with the Act respecting the Québec sales tax and, where that other person is an individual, that other person's Social Insurance Number,

ii. the total amount of the consideration provided for in the particular contract referred to in that subparagraph that is required to be paid to the other person or partnership and that relates to the scientific research and experimental development referred to in that section that the taxpayer or the partnership of which the taxpayer is a member causes to be undertaken on behalf of the taxpayer or the partnership of which the taxpayer is a member under the contract referred to in that subparagraph that the taxpayer or the partnership of which the taxpayer is a member has entered into with the person or partnership referred to in that subparagraph, and

iii. the amount of the portion of the consideration provided for in the particular contract referred to in that subparagraph that is paid in the year or, where the taxpayer is a member of a partnership, in the fiscal period of the partnership ending in the year, to the other person or partnership and that relates to the scientific research and experimental development referred to in that section that the taxpayer or the partnership of which the taxpayer is a member causes to be undertaken

on behalf of the taxpayer or the partnership of which the taxpayer is a member under the contract referred to in that subparagraph that the taxpayer or the partnership of which the taxpayer is a member has entered into with the person or partnership referred to in that subparagraph; and

(c) in the case of an expenditure that is a portion of a consideration referred to in subparagraph *i* of the first paragraph of section 1029.7 or 1029.8, as the case may be,

i. the name of the other person or partnership referred to in that subparagraph with whom the person or partnership with whom a particular contract has been entered into by the taxpayer or the partnership of which the taxpayer is a member has entered into the other particular contract referred to in that subparagraph, the registration number assigned to that other person or partnership in accordance with the Act respecting the Québec sales tax and, where that other person is an individual, that other person's Social Insurance Number,

ii. the total amount of the consideration provided for in the other particular contract referred to in that subparagraph that is required to be paid to the other person or partnership and that relates to the work relating to the scientific research and experimental development referred to in that section that the taxpayer or the partnership of which the taxpayer is a member causes to be undertaken under the particular contract referred to in that subparagraph that the taxpayer or the partnership of which the taxpayer is a member has entered into with the person or partnership referred to in that subparagraph, and

iii. the amount of the portion of the consideration provided for in the other particular contract referred to in that subparagraph that is paid in the year or, where the taxpayer is a member of a partnership, in the fiscal period of the partnership ending in the year, to the other person or partnership and that relates to the work relating to the scientific research and experimental development referred to in that section that the taxpayer or the partnership of which the taxpayer is a member causes to be undertaken under the particular contract referred to in that subparagraph that the taxpayer or the partnership of which the taxpayer is a member has entered into with the person or partnership referred to in that subparagraph.

Indemnity for clinical trial.

In addition, where the first paragraph applies to a taxpayer in respect of an expenditure that is a portion of a consideration referred to in any of subparagraphs *c*, *e*, *g* and *i* of the first paragraph of section 1029.7 or 1029.8 and that is an indemnity referred to in the second paragraph of section 1029.8.0.0.2 and attributable to that portion of consideration, it is to be read as if "person's Social Insurance Number" was replaced by "person's date of birth" in any of the following provisions:

(a) in the case of an expenditure that is a portion of a consideration referred to in subparagraph *c* or *e* of the first paragraph of section 1029.7 or 1029.8, as the case may be, subparagraph *i* of subparagraph *a* of the first paragraph;

(b) in the case of an expenditure that is a portion of a consideration referred to in subparagraph *g* of the first paragraph of section 1029.7 or 1029.8, as the case may be, subparagraph *i* of subparagraph *b* of the first paragraph; or

(c) in the case of an expenditure that is a portion of a consideration referred to in subparagraph *i* of the first paragraph of section 1029.7 or 1029.8, as the case may be, subparagraph *i* of subparagraph *c* of the first paragraph.

History: 1995, c. 63, s. 127; 1997, c. 3, s. 71; 1997, c. 14, s. 191; 1997, c. 31, s. 101; 1999, c. 83, s. 170; 2002, c. 9, s. 48; 2007, c. 12, s. 114; 2012, c. 8, s. 185; 2015, c. 36, s. 82; 2019, c. 14, s. 305.

Individuals participating in clinical trials.

1029.8.0.0.2. For the purposes of this division, the following rules apply:

(a) an individual who participates as a clinical trial subject in such a trial carried on by another person or partnership, in accordance with the standards set by the Food and Drug Regulations made under the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27), is deemed to be carrying on work relating to scientific research and experimental development; and

(b) the portion of a consideration paid under a contract, that is referred to in any of subparagraphs *c*, *e*, *g* and *i* of the first paragraph of section 1029.7 or 1029.8, must not be reduced by the amount of an indemnity described in the second paragraph that is attributable to the portion of the consideration.

Interpretation.

The indemnity to which subparagraph *b* of the first paragraph refers means an indemnity paid to an individual who participates as a clinical trial subject in such a trial carried on by another person or partnership, in accordance with the standards set by the Food and Drug Regulations made under the Food and Drugs Act, and who is not an employee of

(a) in the case of a portion of a consideration paid under a contract or particular contract referred to in subparagraph *c* or *e* of the first paragraph of section 1029.7 or 1029.8 to a person or partnership with whom the taxpayer was dealing at arm's length at the time the contract or particular contract was entered into, that person or partnership; and

(b) in the case of a portion of a consideration that has been paid again under a particular contract referred to in subparagraph *g* or *i* of the first paragraph of section 1029.7 or 1029.8 to another person or partnership with whom the

taxpayer was dealing at arm's length at the time the particular contract was entered into, that other person or partnership.

History: 2011, c. 1, s. 58.

1029.8.0.1. *(Repealed).*

History: 1989, c. 5, s. 203; 1995, c. 63, s. 128.

1029.8.0.2. *(Repealed).*

History: 1989, c. 5, s. 203; 1990, c. 7, s. 153; 1993, c. 19, s. 94; 1993, c. 64, s. 140; 1995, c. 63, s. 128.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

DIVISION II.1

CREDIT FOR UNIVERSITY RESEARCH AND FOR RESEARCH CARRIED ON BY A PUBLIC RESEARCH CENTRE OR A RESEARCH CONSORTIUM

§1. — *Interpretation*

Definitions:

1029.8.1. In this division and Division II.2,

(a) *(paragraph repealed)*;

“eligible public research centre”;

(a.1) “eligible public research centre” means a public research centre recognized as an eligible public research centre for the purposes of this division or a college centre for the transfer of technology within the meaning of section 1029.8.21.17;

“eligible research consortium”;

(a.1.1) “eligible research consortium” means a body in respect of which the Minister of Economy and Innovation has issued a certificate recognizing it as a research consortium for the purposes of this division, as well as any other prescribed body;

“eligible research contract”;

(a.2) “eligible research contract” means a contract entered into after 2 May 1991 between a taxpayer or partnership carrying on a business in Canada or a prescribed linkage agency acting for the benefit of such a taxpayer or partnership in accordance with an agreement entered into between the taxpayer or partnership, as the case may be, and the linkage agency, and an eligible public research centre, or after 14 May 1992 between such a taxpayer, partnership or agency and an eligible research consortium under which the eligible public research centre or the eligible research consortium, as the case may be, binds itself to undertake directly, in Québec, within the scope of its activities, scientific research and experimental development related to a business of the taxpayer or partnership, as the case may be, where the latter are entitled to exploit the results thereof;

“university research contract”;

(b) “university research contract” means a contract entered into after 30 April 1987 between a taxpayer or partnership carrying on a business in Canada or a prescribed linkage agency acting for the benefit of such a taxpayer or partnership in accordance with an agreement entered into between the taxpayer or partnership, as the case may be, and the linkage agency, and an eligible university entity under which the eligible university entity binds itself to undertake directly, in Québec, scientific research and experimental development related to a business of the taxpayer or partnership where the latter are entitled to exploit the results thereof;

“tax-exempt taxpayer”;

(b.1) “tax-exempt taxpayer” means a tax-exempt corporation or a trust one of the capital or income beneficiaries of which is a tax-exempt corporation or a person exempt from tax by virtue of Book VIII of this Part;

(c) *(paragraph repealed)*;

(d) *(paragraph repealed)*;

“qualified expenditure”;

(d.1) “qualified expenditure” means an expenditure made in respect of scientific research and experimental development by a taxpayer or partnership that is an expenditure referred to in subsection 1 of section 222, other than such an expenditure referred to in section 1029.8.5.1;

(e) *(paragraph repealed)*;

“eligible university entity”;

(f) “eligible university entity” means a Québec university, a prescribed university hospital medical research centre, a subsidiary wholly-owned corporation of such a centre that is constituted exclusively for the prosecution or promotion of scientific research and experimental development, a non-profit corporation under the authority of such a centre constituted principally for the prosecution or promotion of scientific research and experimental development, one of whose members is such a centre and one of whose applicants for articles of association is a member of the board of directors of the centre, or any other prescribed body;

“university foundation”;

(f.1) “university foundation” means a non-profit corporation constituted for the purpose of promoting and providing financial support to the teaching and research activities of an eligible university entity;

(g) *(paragraph repealed)*;

“overhead expenditure”;

(g.1) “overhead expenditure” in respect of an eligible research contract or a university research contract entered into by a taxpayer or a partnership means an expenditure made, in respect of scientific research and experimental

development, by an eligible public research centre, an eligible research consortium or an eligible university entity under such contract, other than

i. *(subparagraph repealed)*;

ii. an expenditure of a current nature in respect of the prosecution of scientific research and experimental development in Canada directly undertaken on behalf of the taxpayer or partnership, as the case may be,

iii. *(subparagraph repealed)*;

iv. that portion of an expenditure made in respect of the salary or wages of an employee who is directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employee thereon and, for this purpose, if all or substantially all of the employee’s working time is spent on such scientific research and experimental development, that portion of the expenditure is deemed equal to the amount of the expenditure,

v. an expenditure incurred in relation to the cost of materials consumed in the prosecution of scientific research and experimental development undertaken in Canada, and

vi. *(subparagraph repealed)*;

(h) *(paragraph repealed)*;

“wages incurred”;

(i) “wages incurred” by an eligible public research centre, an eligible research consortium or an eligible university entity in respect of scientific research and experimental development undertaken in Québec under an eligible research contract or a university research contract means that portion of an expenditure incurred as salaries, wages or other remuneration, including bonuses, in respect of an employee who is directly engaged in scientific research and experimental development that can reasonably be considered to relate to such scientific research and experimental development, having regard to the time spent by the employee thereon;

“controlled corporation”;

(j) “controlled corporation” means a corporation referred to in section 1029.8.5.3;

“tax-exempt corporation”.

(k) “tax-exempt corporation” means a corporation which is

i. exempt from tax under Book VIII,

ii. a corporation that would be exempt from tax under section 985 but for section 192, or

iii. a controlled corporation or a corporation related to a controlled corporation.

History: 1988, c. 4, s. 125; 1989, c. 5, s. 204; 1990, c. 7, s. 154; 1990, c. 59, s. 344; 1992, c. 1, s. 165; 1993, c. 19, s. 96; 1993, c. 64, s. 141; 1994, c. 16, s. 51; 1995, c. 1, s. 122; 1995, c. 49, s. 236; 1995, c. 63, s. 129; 1997, c. 3, s. 56; 1997, c. 14, s. 192; 1997, c. 31, s. 102; 1997, c. 85, s. 330; 1999, c. 8, s. 19; 2000, c. 5, s. 247; 2001, c. 53, s. 260; 2002, c. 40, s. 105; 2003, c. 9, s. 178; 2003, c. 29, s. 137; O.C. 222-2004; 2005, c. 1, s. 220; 2006, c. 8, s. 31; 2013, c. 28, s. 141; 2015, c. 21, s. 384; 2017, c. 1, s. 272; 2019, c. 14, s. 306; 2019, c. 29, s. 87.

Interpretation Bulletins: IMP. 1029.8.1-1.

§2. — *General*

Scientific research and experimental development deemed undertaken by an eligible university entity.

1029.8.1.1. For the purposes of paragraph *b* of section 1029.8.1, where a particular eligible university entity that is a subsidiary wholly-owned corporation of another eligible university entity that is a prescribed university hospital medical research centre, or a non-profit corporation under the authority of such a centre binds itself to undertake directly, in Québec, scientific research and experimental development, as part of a university research contract, the scientific research and experimental development undertaken by the prescribed university hospital medical research centre, whose particular eligible university entity is either a subsidiary wholly-owned corporation or a non-profit corporation under its authority, on behalf of the particular eligible university entity as part of the contract are deemed to be undertaken by the latter.

Scientific research and experimental development deemed undertaken by an eligible university entity.

For the purposes of paragraph *b* of section 1029.8.1, where a particular eligible university entity that is a prescribed university hospital medical research centre binds itself to undertake directly, in Québec, scientific research and experimental development, as part of a university research contract, the scientific research and experimental development undertaken on behalf of the particular eligible university entity as part of the contract by another eligible university entity that is a subsidiary wholly-owned corporation of the particular eligible university entity or a non-profit corporation under the authority of the eligible university entity, are deemed to be undertaken by the particular eligible university entity.

History: 1993, c. 64, s. 142; 1995, c. 1, s. 123; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 1029.8.1-1.

Amalgamation.

1029.8.1.1.1. For the purposes of paragraph *b* of section 1029.8.1, where a corporation, in this section referred to as a "predecessor corporation", has been amalgamated

and, before the amalgamation, the corporation was an eligible university entity by reason of its being a prescribed university hospital medical research centre and had entered into a university research contract, the new corporation resulting from the amalgamation is, in respect of the contract, deemed to be the same corporation as, and a continuation of, the predecessor corporation, if

(a) the new corporation is an eligible university entity by reason of its being a prescribed university hospital medical research centre; and

(b) the new corporation carries on the performance of the contract.

History: 1997, c. 14, s. 193.

Interpretation Bulletins: IMP. 1029.8.1-1.

Qualified expenditure limit.

1029.8.1.2. Subject to Division II.4, for the purposes of subparagraph *a* of the first paragraph of sections 1029.8.6 and 1029.8.7, all or any part of the amount of a qualified expenditure paid by a taxpayer or a partnership under an eligible research contract or university research contract that can reasonably be considered to be attributable to expenditures for scientific research and experimental development that an eligible public research centre, eligible research consortium or eligible university entity, as the case may be, has made in Québec under the contract in a taxation year of the taxpayer or a fiscal period of the partnership, is deemed not to exceed the amount that would represent the amount of a qualified expenditure of the taxpayer or partnership in respect of the scientific research and experimental development, if each expenditure (in this section referred to as a "particular expenditure"), for the scientific research and experimental development, that is made in Québec in that year or period as part of the contract by the eligible public research centre, eligible research consortium or eligible university entity, as the case may be, were made by the taxpayer or partnership, in the same circumstances and under the same conditions and were referred to in subsection 1 of section 222 and if the aggregate of the amount of each particular expenditure, which constitutes an overhead expenditure, were limited to 55% of the aggregate of the amount of each particular expenditure which constitutes incurred wages.

History: 1993, c. 64, s. 142; 1995, c. 1, s. 123; 1997, c. 3, s. 71; 2015, c. 21, s. 385.

Interpretation Bulletins: IMP. 1029.8.1-1.

Maximum qualified expenditures.

1029.8.1.3. Subject to Division II.4, for the purposes of the first paragraph of section 1029.8.6, where a corporation has paid an amount that is a qualified expenditure under a university research contract and a university foundation has become surety for that corporation in respect of the payment of amounts used for the financing of scientific research and experimental development provided for in the contract, all or

any part of the amount of the qualified expenditure that may reasonably be attributed to expenditures for the scientific research and experimental development that an eligible university entity has made in Québec under that contract in a taxation year of the corporation is deemed not to exceed \$1,500,000.

Exception.

Notwithstanding the first paragraph and section 1029.8.1.2, where the amount of a qualified expenditure would, but for this paragraph, be reduced because of the first paragraph and of that section 1029.8.1.2, all or any part of the amount of a qualified expenditure paid by a corporation under a university research contract that may reasonably be attributed to expenditures for scientific research and experimental development that an eligible university entity has made in Québec under that contract in a taxation year of the corporation, is deemed, subject to Division II.4 and for the purposes of subparagraph *a* of the first paragraph of section 1029.8.6, not to exceed the proportion of \$1,500,000 that the amount of the qualified expenditure determined in accordance with section 1029.8.1.2 for the year is of the amount that the amount of that qualified expenditure would be for the year but for that section 1029.8.1.2 and this section.

History: 1997, c. 14, s. 194.

Interpretation Bulletins: IMP. 1029.8.1-1.

Contract deemed not to be a university research contract or an eligible research contract.

1029.8.2. For the purposes of paragraphs *a.2* and *b* of section 1029.8.1, where a research contract was entered into before 1 May 1987 with an entity which, after 30 April 1987, is an eligible university entity, before 2 May 1991 with an entity which, after 1 May 1991, is an eligible public research centre or before 15 May 1992 with an entity which, after 14 May 1992, is an eligible research consortium, where expenditures on scientific research and experimental development were to be made under the research contract and where, subsequently to that research contract, another research contract which, but for this section, would be a university research contract or an eligible research contract, as the case may be, is entered into, that other research contract is deemed, if the Minister so decides, not to be a university research contract or an eligible research contract, as the case may be, if it may reasonably be considered to relate to expenditures on scientific research and experimental development covered by the earlier research contract entered into, as the case may be, before 1 May 1987 by an entity which, after 30 April 1987, is an eligible university entity, before 2 May 1991 by an entity which, after 1 May 1991, is an eligible public research centre or before 15 May 1992 by an entity which, after 14 May 1992, is an eligible research consortium, and if the other research contract is entered into with

(*a*) the taxpayer or partnership having entered into the earlier research contract; or

(*b*) a person or partnership related to the taxpayer or partnership contemplated in paragraph *a*.

History: 1988, c. 4, s. 125; 1989, c. 5, s. 205; 1992, c. 1, s. 166; 1993, c. 19, s. 97; 1997, c. 3, s. 71; 2004, c. 21, s. 265.

Interpretation Bulletins: IMP. 1029.8.1-1.

Corresponding Federal Provision: 118.01(1) “eligible adoption expense” and “adoption period”.

1029.8.3. (*Repealed*).

History: 1988, c. 4, s. 125; 1989, c. 5, s. 206; 1990, c. 7, s. 155.

Interpretation Bulletins: IMP. 1029.8.1-1.

1029.8.4. (*Repealed*).

History: 1988, c. 4, s. 125; 1989, c. 5, s. 207; 1990, c. 7, s. 155.

Interpretation Bulletins: IMP. 1029.8.1-1.

1029.8.5. (*Repealed*).

History: 1988, c. 4, s. 125; 1989, c. 5, s. 207; 1990, c. 7, s. 155.

Interpretation Bulletins: IMP. 1029.8.1-1.

Excluded expenditure.

1029.8.5.1. The expenditure to which paragraph *d.1* of section 1029.8.1 refers is

(*a*) an expenditure of a current nature incurred by an eligible public research centre, an eligible research consortium or an eligible university entity in respect of the general administration or management of a business, including

i. the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific research and experimental development, except to the extent that such expenditure is a prescribed expenditure;

ii. a legal or accounting fee;

iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179;

iv. an entertainment expense;

v. an advertising or selling expense;

vi. a conference or convention expense;

vii. a due or fee in respect of membership in a scientific or technical organization;

viii. a fine or penalty;

(*b*) an expenditure of a current nature incurred by an eligible public research centre, an eligible research consortium or an eligible university entity for the maintenance and upkeep of

premises, facilities or equipment to the extent that such expenditure is not attributable to the prosecution of scientific research and experimental development;

(c) (*paragraph repealed*);

(d) an expenditure incurred by an eligible public research centre, an eligible research consortium or an eligible university entity to acquire property if such property has been used, or acquired for use or lease, for any purpose whatever before it was acquired;

(e) an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;

(f) an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.11 or 752.0.10.1 to 752.0.10.26 in computing taxable income or tax payable under this Part, as the case may be;

(g) an expenditure, to the extent that the eligible public research centre, the eligible research consortium or the eligible university entity having incurred it has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than

i. the State or Her Majesty in right of Canada or a province, other than Québec,

ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or

iv. a municipality in Canada or a municipal or public body performing a function of government in Canada;

(h) an expenditure, to the extent that the eligible public research centre, the eligible research consortium or the eligible university entity having incurred it has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible by the person in computing taxable income earned in Canada for a taxation year;

(i) an expenditure contemplated in section 230.0.0.2;

(j) an expenditure specified by a corporation for the purposes of clause A of subparagraph ii of paragraph a of

subsection 2 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1990, c. 7, s. 156; 1991, c. 8, s. 77; 1993, c. 16, s. 332; 1993, c. 64, s. 143; 1995, c. 1, s. 124; 1995, c. 49, s. 236; 1995, c. 63, s. 130; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 1998, c. 16, s. 224; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 142; 2007, c. 12, s. 115; 2012, c. 8, s. 186; 2015, c. 21, s. 386.

Interpretation Bulletins: IMP. 1029.8.1-1.

1029.8.5.2. (*Repealed*).

History: 1990, c. 7, s. 156; 1995, c. 1, s. 125.

Interpretation Bulletins: IMP. 1029.8.1-1.

Controlled corporation.

1029.8.5.3. A corporation to which paragraph *j* of section 1029.8.1 refers is a corporation which, in the 24 months preceding the date on which a contract referred to in section 1029.8.6 or 1029.8.7 is entered into or at a later time determined by the Minister, is controlled, directly or indirectly in any manner whatever, by

(a) an eligible university entity;

(b) an eligible public research centre;

(c) an eligible research consortium;

(d) a trust one of the capital or income beneficiaries of which is an eligible university entity, an eligible public research centre or an eligible research consortium;

(e) a corporation carrying on a personal services business; or

(f) a combination of entities or persons each of which is referred to in any of paragraphs *a* to *e*.

History: 1993, c. 19, s. 98; 1997, c. 3, s. 57; 2004, c. 21, s. 266; 2007, c. 12, s. 116.

Interpretation Bulletins: IMP. 1029.8.1-1.

§3. — *Credit*

Expenditures made on behalf of a taxpayer.

1029.8.6. A taxpayer, other than a tax-exempt taxpayer, who carries on a business in Canada, who has entered into a university research contract with an eligible university entity or into an eligible research contract with an eligible public research centre or an eligible research consortium, or for the benefit of whom a prescribed linkage agency has entered into such a contract in accordance with an agreement entered into between the taxpayer and the prescribed linkage agency, and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxation year in which scientific research and experimental

development related to a business of the taxpayer was undertaken under the contract by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer's balance-due day for that year, on account of the taxpayer's tax payable for that year under this Part, an amount equal to 14%

(a) where, at the time the contract was entered into, the taxpayer was related to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, of the total or partial amount of a qualified expenditure he has paid to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, that may reasonably be attributed to expenditures made for scientific research and experimental development by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, in Québec under the contract during the year; or

(b) where, at the time the contract was entered into, the taxpayer was not related to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, of 80% of an amount representing the total or partial amount of a qualified expenditure he has paid to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, that may reasonably be attributable to expenditures made for scientific research and experimental development by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, in Québec under the contract during the year.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is

deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Restriction.

For the purposes of the first paragraph, an amount paid by a taxpayer to an eligible university entity, an eligible public research centre or an eligible research consortium does not include an amount that constitutes all or part of an amount that can reasonably be considered to be an expenditure in respect of scientific research and experimental development made in Québec by virtue of an agreement in respect of which section 1029.8.10 applies.

History: 1988, c. 4, s. 125; 1989, c. 5, s. 208; 1990, c. 7, s. 157; 1992, c. 1, s. 167; 1993, c. 19, s. 99; 1993, c. 64, s. 144; 1995, c. 1, s. 126; 1995, c. 63, s. 131; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 31, s. 143; 2003, c. 9, s. 179; 2004, c. 21, s. 267; 2006, c. 13, s. 97; 2009, c. 5, s. 432; 2015, c. 21, s. 387; 2015, c. 36, s. 83.

Interpretation Bulletins: IMP. 1029.8.1-1; IMP. 1029.8.17-1/R1.

1029.8.6.1. (Repealed).

History: 1989, c. 5, s. 209; 1995, c. 63, s. 132.

Interpretation Bulletins: IMP. 1029.8.1-1.

Canadian-controlled private corporation whose assets are less than \$75,000,000.

1029.8.6.2. Where the taxpayer to which section 1029.8.6 applies is a corporation that has been, throughout the taxation year referred to in that section, a corporation that is not controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada and the assets shown in its financial statements submitted to the shareholders or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown had such financial statements been prepared in accordance with generally accepted accounting principles, for its preceding taxation year or, if the corporation is in its first fiscal period, at the beginning of its first fiscal period, were less than \$75,000,000, the percentage of 14% mentioned in the first paragraph of that section is to be replaced by the percentage determined by the following formula, to the extent that it is applied to any of the amounts described in the first paragraph of section 1029.8.6 which does not exceed the expenditure limit of the corporation for the year:

$$30\% - \{[(A - \$50,000,000) \times 16\%] / \$25,000,000\}.$$

Interpretation.

In the formula in the first paragraph, A is the greater of \$50,000,000 and the assets of the corporation determined as provided in this division.

Cooperative.

Where the corporation referred to in the first paragraph is a cooperative, the first paragraph is to be read as if “submitted to the shareholders” were replaced by “submitted to the members”.

History: 2015, c. 36, s. 84.

Assets of a corporation.

1029.8.6.3. For the purposes of section 1029.8.6.2, in computing the assets of a corporation, the amount representing the surplus reassessment of its property and the amount of its incorporeal assets are to be subtracted, to the extent that the amount shown in their respect exceeds the expenditure made in their respect.

Expenditure deemed nil.

For the purposes of the first paragraph, where all or part of an expenditure made in respect of incorporeal assets consists of shares of the corporation’s or cooperative’s capital stock, all or the part of the expenditure, as the case may be, is deemed to be nil.

History: 2015, c. 36, s. 84.

Associated corporation.

1029.8.6.4. For the purposes of section 1029.8.6.2, the assets of a corporation that is associated in a taxation year with one or more other corporations are equal to the amount by which the aggregate of the assets of the corporation and those of each corporation associated with it, determined in accordance with sections 1029.8.6.2 and 1029.8.6.3, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

History: 2015, c. 36, s. 84.

Reduction of assets.

1029.8.6.5. For the purposes of sections 1029.8.6.2 to 1029.8.6.4, where a corporation or a corporation with which it is associated reduces its assets by any transaction in a taxation year and, but for that reduction, section 1029.8.6.2 would not apply to the corporation, the assets are deemed not to have been so reduced unless the Minister decides otherwise.

History: 2015, c. 36, s. 84.

Expenditure limit.

1029.8.6.6. For the purposes of section 1029.8.6.2, the expenditure limit of a particular corporation for a taxation year equals \$3,000,000, unless the particular corporation is associated in the year with one or more other corporations that are not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada, in

which case, subject to sections 1029.8.6.7 to 1029.8.6.9, its expenditure limit for the year is nil.

History: 2015, c. 36, s. 84.

Agreement among associated corporations to allocate the expenditure limit.

1029.8.6.7. Where all of the corporations that are associated with each other in a taxation year and to which section 1029.8.6.6 applies have filed with the Minister, in the prescribed form, an agreement whereby, for the purposes of section 1029.8.6.2, they allocate an amount to one or more of them for the taxation year and the amount or the aggregate of the amounts so allocated, as the case may be, equals \$3,000,000, the expenditure limit for the year of each of the corporations is equal to the amount so allocated to it.

History: 2015, c. 36, s. 84.

Allocation of the expenditure limit by the Minister.

1029.8.6.8. Where any of the corporations that are associated with each other in a taxation year and to which section 1029.8.6.6 applies fails to file with the Minister the agreement referred to in section 1029.8.6.7 within 30 days after notice in writing by the Minister is forwarded to any of them that such an agreement is required in determining the amount deemed to have been paid to the Minister on account of the corporation’s tax payable for the year under this Part, the Minister shall, for the purposes of section 1029.8.6.2, allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, must be equal to \$3,000,000, and in any such case the expenditure limit for the year of each of the corporations equals the amount so allocated to it.

History: 2015, c. 36, s. 84.

Expenditure limit determination in certain cases.

1029.8.6.9. Despite any other provision of this division, the following rules apply:

(a) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada (in this section referred to as “the first corporation”) has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another such corporation that has a taxation year ending in that calendar year, the expenditure limit of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to paragraph *b*, an amount equal to its expenditure limit for the first such taxation year determined without reference to paragraph *b*; and

(b) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada has a taxation year that is less than 51 weeks, its expenditure limit for the year is equal to that

proportion of its expenditure limit for the year determined without reference to this paragraph that the number of days in the year is of 365.

History: 2015, c. 36, s. 84.

Research carried out on behalf of a partnership.

1029.8.7. Where a partnership carries on a business in Canada and has entered into a university research contract with an eligible university entity or into an eligible research contract with an eligible public research centre or eligible research consortium, or where such a contract has been entered into by a prescribed linkage agency for the benefit of the partnership in accordance with an agreement entered into between the partnership and the prescribed linkage agency, each taxpayer, other than a tax-exempt taxpayer, who is a member of the partnership at the end of a fiscal period of the partnership in which scientific research and experimental development related to a business of the partnership was undertaken under the contract by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, who is not a specified member of the partnership in that fiscal period and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxpayer's taxation year in which the fiscal period ends, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer's balance-due day for that year, on account of the taxpayer's tax payable for that year under this Part, an amount equal to 14% of the taxpayer's share

(a) where, at the time the contract was entered into, a member of the partnership was related to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, of the total or partial amount of a qualified expenditure the partnership has paid to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, that can reasonably be attributed to expenditures in respect of scientific research and experimental development made in Québec by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, under the contract during the fiscal period; or

(b) where, at the time the contract was entered into, no member of the partnership was related to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, of 80% of an amount representing the total or partial amount of a qualified expenditure the partnership has paid to the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, that can reasonably be attributed to expenditures in respect of scientific research and experimental development made in Québec by the eligible university entity, the eligible public

research centre or the eligible research consortium, as the case may be, under the contract during the fiscal period.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Restriction.

For the purposes of the first paragraph, an amount paid by a partnership to an eligible university entity, an eligible public research centre or an eligible research consortium does not include an amount that constitutes all or part of an amount that may reasonably be considered to be an expenditure in respect of scientific research and experimental development made in Québec by virtue of an agreement in respect of which section 1029.8.11 applies.

Taxpayer's share.

For the purposes of the first paragraph, a taxpayer's share of an amount is equal to the agreed proportion of the amount in respect of the taxpayer for the partnership's fiscal period that ends in the taxpayer's taxation year.

History: 1988, c. 4, s. 125; 1989, c. 5, s. 210; 1990, c. 7, s. 158; 1992, c. 1, s. 168; 1993, c. 19, s. 100; 1993, c. 64, s. 145; 1995, c. 1, s. 127; 1995, c. 63, s. 133; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 31, s. 143; 2003, c. 9, s. 180; 2004, c. 21, s. 268; 2006, c. 13, s. 98; 2009, c. 5, s. 433; 2009, c. 15, s. 206; 2015, c. 21, s. 388; 2015, c. 36, s. 85.

Interpretation Bulletins: IMP. 1029.8.1-1; IMP. 1029.8.17-1/R1.

1029.8.7.1. (Repealed).

History: 1989, c. 5, s. 211; 1995, c. 63, s. 134.

Interpretation Bulletins: IMP. 1029.8.1-1.

1029.8.7.2. *(Repealed).*

History: 1989, c. 5, s. 211; 1990, c. 7, s. 159; 1992, c. 1, s. 169; 1993, c. 19, s. 101; 1993, c. 64, s. 146; 1995, c. 1, s. 128; 1995, c. 49, s. 236; 1995, c. 63, s. 134.

Interpretation Bulletins: IMP. 1029.8.1-1; IMP. 1029.8.17-1/R1.

DIVISION II.2**RESTRICTION IN RESPECT OF THE CREDITS FOR SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT****1029.8.8.** *(Repealed).*

History: 1988, c. 4, s. 125; 1989, c. 5, s. 212; 1995, c. 63, s. 134.

Interpretation Bulletins: IMP. 1029.8.1-1.

Advance ruling required.

1029.8.9. A taxpayer shall not be deemed to have paid to the Minister an amount or his portion of an amount referred to in section 1029.8.6 or 1029.8.7 related to a university research contract entered into after 18 December 1987 or an eligible research contract unless a favourable advance ruling has been given by the Minister regarding the university research contract or the eligible research contract, as the case may be, to which the amount or that portion of an amount, as the case may be, is related, before any amount is paid, pursuant to the contract, to an eligible university entity, an eligible public research centre or an eligible research consortium, as the case may be.

Two or more research contracts.

Furthermore, where an amount or portion of an amount is related to two or more university research contracts or two or more eligible research contracts, the favourable advance ruling referred to in the first paragraph shall be made in respect of each contract to which the amount or portion of an amount, as the case may be, is related.

Amount paid before advance ruling.

Where an amount has been paid to an eligible university entity pursuant to a university research contract, or to an eligible public research centre or an eligible research consortium, as the case may be, pursuant to an eligible research contract, before a favourable advance ruling is given by the Minister regarding the contract, the amount so paid is, for the purposes of the first paragraph, deemed to have been paid after a favourable advance ruling was given by the Minister regarding the contract, if

(a) an application for an advance ruling regarding the contract has been filed with the Minister

i. on or before the ninetieth day following the date on which the contract was entered into,

ii. where the conditions of the fourth paragraph in respect of the application for an advance ruling are met, within three years following the date on which the contract was entered into, or

iii. where the conditions of the fifth paragraph in respect of the application for an advance ruling are met, more than three years following the date on which the contract was entered into; and

(b) the Minister has given a favourable ruling regarding the contract.

Conditions.

The conditions to which subparagraph ii of subparagraph *a* of the third paragraph refers in respect of an application for an advance ruling regarding a university research contract or an eligible research contract entered into by a taxpayer are as follows:

(a) the application could not be filed, for reasons beyond the control of the taxpayer, on or before the ninetieth day following the date on which the contract was entered into;

(b) the application gives the reasons why it could not be filed on or before the ninetieth day following the date on which the contract was entered into; and

(c) the Minister considers that the reasons put forward justify granting the application.

Other conditions.

The conditions to which subparagraph iii of subparagraph *a* of the third paragraph refers in respect of an application for an advance ruling regarding a university research contract or an eligible research contract entered into by a taxpayer are as follows:

(a) the taxpayer has filed with the Minister the prescribed form containing prescribed information and, if applicable, a copy of each agreement, certificate, favourable advance ruling, qualification certificate, rate schedule, receipt or report within the time limit provided for in the first paragraph of section 1029.6.0.1.2 that applies to the taxpayer for a taxation year, so as to be deemed to have paid an amount to the Minister for the year under any of Divisions II.5.1 to II.6.15 in respect of an expenditure incurred under the contract; and

(b) the Minister considers that the reasons put forward justify granting the application.

University foundation.

Where an amount is related to a university research contract entered into between a corporation and an eligible university entity and a university foundation has become surety for the corporation in respect of the payment of that amount, the

application for an advance ruling relating to that contract shall demonstrate that the university foundation has so become surety for the corporation and that the requirements set out in subparagraphs *a* to *d* of the fourth paragraph of section 1029.8.19.2 in respect of the suretyship are met.

History: 1989, c. 5, s. 213; 1990, c. 7, s. 160; 1992, c. 1, s. 171; 1993, c. 19, s. 102; 1995, c. 63, s. 135; 1997, c. 14, s. 195; 1997, c. 85, s. 248; 2000, c. 5, s. 248; 2002, c. 40, s. 106; 2004, c. 21, s. 269; 2007, c. 12, s. 117; 2011, c. 1, s. 59; 2010, c. 31, s. 89; 2011, c. 6, s. 185; 2015, c. 36, s. 86.

Interpretation Bulletins: IMP. 1029.8.1-1.

University research contract carried out by a subsidiary wholly-owned corporation.

1029.8.9.0.1. For the purposes of Division II.1, where a university research contract has been entered into by an eligible university entity that is a prescribed university hospital medical research centre, and another eligible university entity that is either a subsidiary wholly-owned corporation of the centre or a non-profit corporation under the authority of the centre is substituted therefor to carry on the performance of the contract, the subsidiary or the corporation, as the case may be, is deemed not to be a separate person from the centre if

(a) an application for an advance ruling regarding the substitution has been filed with the Minister within 90 days from the date of substitution, and

(b) a favourable ruling on the substitution was rendered by the Minister.

History: 1992, c. 1, s. 172; 1995, c. 1, s. 129; 1997, c. 3, s. 71; 2010, c. 31, s. 89.

Advance ruling required.

1029.8.9.0.1.1. An individual who is a member of a partnership shall not be deemed to have paid to the Minister his portion of an amount referred to in section 1029.8 or 1029.8.7 unless a favourable advance ruling has been given by the Minister to the effect that the objectives of Divisions II and II.1 and, where applicable, the formalities provided for in the Securities Act (chapter V-1.1) in respect of the financing have been complied with.

History: 1993, c. 64, s. 147; 1997, c. 3, s. 71; 2010, c. 25, s. 120; 2010, c. 31, s. 89.

Presumption.

1029.8.9.0.1.2. For the purposes of Division II.1, where, in relation to a university research contract or an eligible research contract, part of the scientific research and experimental development provided for in the contract is undertaken by a particular person, other than the eligible university entity, eligible public research centre or eligible research consortium, that is a party to the contract, in this section referred to as "the contractor", and the application for an advance ruling relating to that contract establishes that the

contractor is directly undertaking substantially all of the scientific research and experimental development and retains general control over the performance of the contract, the scientific research and experimental development undertaken by the particular person is deemed to be undertaken directly by the contractor.

History: 2000, c. 39, s. 126; 2001, c. 53, s. 219.

1029.8.9.0.1.3. (Repealed).

History: 2002, c. 40, s. 107; 2004, c. 21, s. 270; 2005, c. 1, s. 221; 2007, c. 12, s. 118.

DIVISION II.2.1

CREDIT FOR FEES AND DUES PAID TO A RESEARCH CONSORTIUM

§1. — *Interpretation*

Definitions:

1029.8.9.0.2. In this division,

"eligible fee";

"eligible fee" of a taxpayer or partnership, for a taxation year or fiscal period, as the case may be, relating to an eligible research consortium, means the amount obtained by multiplying the amount of expenditures made by the eligible research consortium in respect of scientific research and experimental development related to a business of the taxpayer or partnership undertaken by the eligible research consortium in Québec, after 14 May 1992, in its fiscal period ending in the taxation year of the taxpayer or fiscal period of the partnership, that may reasonably be considered to be attributable to fees or dues paid, during that fiscal period of the eligible research consortium, by all the taxpayers and all the partnerships that are members thereof by such proportion as the fee or dues paid by the taxpayer or partnership, as the case may be, to the eligible research consortium, during the fiscal period of the eligible research consortium ending in the taxation year of the taxpayer or the fiscal period of the partnership, to be a member thereof is or are of the aggregate of the fees or dues paid, during that fiscal period of the eligible research consortium, by all the taxpayers and all the partnerships that are members thereof;

"eligible fee balance";

"eligible fee balance" of a taxpayer or partnership, for a taxation year or fiscal period, as the case may be, relating to an eligible research consortium, means the aggregate of all amounts each of which is the amount obtained by multiplying the amount of expenditures made by the eligible research consortium in respect of scientific research and experimental development related to a business of the taxpayer or partnership undertaken by the eligible research consortium in Québec in its fiscal period ending in the taxation year of the taxpayer or fiscal period of the partnership, that may reasonably be considered to be attributable to fees or dues paid, during the particular fiscal period of the eligible research consortium, by all the

taxpayers and all the partnerships that were members thereof by such proportion as the fee or dues paid by the taxpayer or the partnership, as the case may be, to the eligible research consortium, during the particular fiscal period of the eligible research consortium ending in a preceding taxation year of the taxpayer or a preceding fiscal period of the partnership, to be a member of the eligible research consortium is or are of the aggregate of the fees or dues paid, during the particular fiscal period of the eligible research consortium, by all the taxpayers and all the partnerships that were members thereof;

“eligible research consortium”;

“eligible research consortium” has the meaning assigned by paragraph *a.1.1* of section 1029.8.1;

“tax-exempt taxpayer”.

“tax-exempt taxpayer” has the meaning assigned by paragraph *b.1* of section 1029.8.1.

Special rules.

For the purposes of this section, the expenditures made by an eligible research consortium are attributable to fees or dues paid during a fiscal period only if the expenditures may reasonably be considered not to be attributable to fees or dues paid to the eligible research consortium during a preceding fiscal period, and for the purposes of this paragraph, the expenditures made by an eligible research consortium are attributable to fees or dues paid to it in the order in which they have been received.

History: 1993, c. 19, s. 103; 1993, c. 64, s. 148; 1995, c. 1, s. 130; 1997, c. 3, s. 58; 1997, c. 14, s. 196; 2001, c. 51, s. 91; 2006, c. 13, s. 99.

Expenditures and research related to a business.

1029.8.9.0.2.1. For the purposes of this division,

(*a*) the expenditures made by an eligible research consortium for scientific research and experimental development mean the expenditures referred to in subsection 1 of section 222, other than those described in section 1029.8.9.0.2.2, and must be determined as if section 230 were read without reference to subparagraph *c* of its first paragraph; and

(*b*) scientific research and experimental development related to a business of a taxpayer, or of a partnership, who or which is a member of an eligible research consortium that is made by that consortium must be considered to be related to a business of the eligible research consortium.

History: 2005, c. 23, s. 145; 2015, c. 21, s. 389.

Non-eligible expenditures.

1029.8.9.0.2.2. The expenditures to which paragraph *a* of section 1029.8.9.0.2.1 refers are

(*a*) an expenditure of a current nature incurred by an eligible research consortium in respect of the general administration or management of a business, including

i. the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific research and experimental development, except to the extent that such expenditure is a prescribed expenditure,

ii. a legal or accounting fee,

iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179,

iv. an entertainment expense,

v. an advertising or selling expense,

vi. a conference or convention expense,

vii. a due or fee in respect of membership in a scientific or technical organization, and

viii. a fine or penalty;

(*b*) an expenditure of a current nature incurred by an eligible research consortium for the maintenance and upkeep of premises, facilities or equipment to the extent that such expenditure is not attributable to the prosecution of scientific research and experimental development;

(*c*) (*paragraph repealed*);

(*d*) an expenditure incurred by an eligible research consortium to acquire property if such property has been used, or acquired for use or lease, for any purpose whatsoever before it was acquired;

(*e*) an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;

(*f*) an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.11 or 752.0.10.1 to 752.0.10.26 in computing taxable income or tax payable under this Part, as the case may be;

(*g*) an expenditure, to the extent that the eligible research consortium having incurred it has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than

i. the State or Her Majesty in right of Canada or a province, other than Québec,

ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatsoever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or

iv. a municipality in Canada or a municipal or public body performing a function of government in Canada;

(h) an expenditure, to the extent that the eligible research consortium having incurred it has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible by the person in computing taxable income earned in Canada for a taxation year;

(i) an expenditure referred to in section 230.0.0.2; and

(j) an expenditure specified by a corporation for the purposes of clause A of subparagraph ii of paragraph *a* of subsection 2 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2005, c. 23, s. 145; 2007, c. 12, s. 119; 2012, c. 8, s. 187; 2015, c. 21, s. 390.

Acquisition of property or a service from a member.

1029.8.9.0.2.3. If an expenditure made by an eligible research consortium for scientific research and experimental development consists in acquiring property from a member of that consortium or obtaining a service rendered by a member of that consortium, the amount of that expenditure must not exceed the lesser of the fair market value of the property or service the cost or capital cost of the property or service to the member.

History: 2005, c. 23, s. 145.

§2. — *Credit*

Credit.

1029.8.9.0.3. A taxpayer, other than a tax-exempt taxpayer, who carries on a business in Canada and who encloses with the fiscal return the taxpayer is required to file for a taxation year under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, the prescribed form containing the prescribed information, is deemed, subject to the second paragraph, to have paid to the Minister on the taxpayer's balance-due day for the year, on account of the taxpayer's tax payable for that year under this Part, an amount equal to 14% of the total of the aggregate of all amounts each of which is the taxpayer's eligible fee for the year relating to an eligible research consortium and the aggregate of all amounts each of which is, where the taxpayer is a member of an eligible research consortium at the end of the fiscal period of the eligible research

consortium ending in the year, the taxpayer's eligible fee balance for the year relating to that consortium.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 1993, c. 19, s. 103; 1995, c. 63, s. 136; 1997, c. 3, s. 71; 1997, c. 14, s. 197; 1997, c. 31, s. 143; 2001, c. 51, s. 92; 2003, c. 9, s. 181; 2004, c. 21, s. 271; 2015, c. 21, s. 391; 2015, c. 36, s. 87.

Canadian-controlled private corporation whose assets are less than \$75,000,000.

1029.8.9.0.3.1. Where the taxpayer to which section 1029.8.9.0.3 applies is a corporation that has been, throughout the taxation year referred to in that section, a corporation that is not controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada and the assets shown in its financial statements submitted to the shareholders or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown had such financial statements been prepared in accordance with generally accepted accounting principles, for its preceding taxation year or, if the corporation is in its first fiscal period, at the beginning of its first fiscal period, were less than \$75,000,000, the percentage of 14% mentioned in the first paragraph of that section is to be replaced by the percentage determined by the following formula, to the extent that it is applied to the total of the amounts described in the first paragraph of section 1029.8.9.0.3 which does not exceed the expenditure limit of the corporation for the year:

$$30\% - \{[(A - \$50,000,000) \times 16\%] / \$25,000,000\}.$$

Interpretation.

In the formula in the first paragraph, A is the greater of \$50,000,000 and the assets of the corporation determined as provided in this division.

Cooperative.

Where the corporation referred to in the first paragraph is a cooperative, the first paragraph is to be read as if “submitted to the shareholders” were replaced by “submitted to the members”.

History: 2015, c. 36, s. 88.

Assets of a corporation.

1029.8.9.0.3.2. For the purposes of section 1029.8.9.0.3.1, in computing the assets of a corporation, the amount representing the surplus reassessment of its property and the amount of its incorporeal assets are to be subtracted, to the extent that the amount shown in their respect exceeds the expenditure made in their respect.

Expenditure deemed nil.

For the purposes of the first paragraph, where all or part of an expenditure made in respect of incorporeal assets consists of shares of the corporation’s or cooperative’s capital stock, all or the part of the expenditure, as the case may be, is deemed to be nil.

History: 2015, c. 36, s. 88.

Associated corporation.

1029.8.9.0.3.3. For the purposes of section 1029.8.9.0.3.1, the assets of a corporation that is associated in a taxation year with one or more other corporations are equal to the amount by which the aggregate of the assets of the corporation and those of each corporation associated with it, determined in accordance with sections 1029.8.9.0.3.1 and 1029.8.9.0.3.2, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

History: 2015, c. 36, s. 88.

Reduction of assets.

1029.8.9.0.3.4. For the purposes of sections 1029.8.9.0.3.1 to 1029.8.9.0.3.3, where a corporation or a corporation with which it is associated reduces its assets by any transaction in a taxation year and, but for that reduction, section 1029.8.9.0.3.1 would not apply to the corporation, the assets are deemed not to have been so reduced unless the Minister decides otherwise.

History: 2015, c. 36, s. 88.

Expenditure limit.

1029.8.9.0.3.5. For the purposes of section 1029.8.9.0.3.1, the expenditure limit of a particular corporation for a taxation year equals \$3,000,000, unless the particular corporation is associated in the year with one or more other corporations that are not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada, in which case, subject to sections 1029.8.9.0.3.6 to 1029.8.9.0.3.8, its expenditure limit for the year is nil.

History: 2015, c. 36, s. 88.

Agreement among associated corporations to allocate the expenditure limit.

1029.8.9.0.3.6. Where all of the corporations that are associated with each other in a taxation year and to which section 1029.8.9.0.3.5 applies have filed with the Minister, in the prescribed form, an agreement whereby, for the purposes of section 1029.8.9.0.3.1, they allocate an amount to one or more of them for the taxation year and the amount or the aggregate of the amounts so allocated, as the case may be, equals \$3,000,000, the expenditure limit for the year of each of the corporations is equal to the amount so allocated to it.

History: 2015, c. 36, s. 88.

Allocation of the expenditure limit by the Minister

1029.8.9.0.3.7. Where any of the corporations that are associated with each other in a taxation year and to which section 1029.8.9.0.3.5 applies fails to file with the Minister the agreement referred to in section 1029.8.9.0.3.6 within 30 days after notice in writing by the Minister is forwarded to any of them that such an agreement is required in determining the amount deemed to have been paid to the Minister on account of the corporation’s tax payable for the year under this Part, the Minister shall, for the purposes of section 1029.8.9.0.3.1, allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, must be equal to \$3,000,000, and in any such case the expenditure limit for the year of each of the corporations equals the amount so allocated to it.

History: 2015, c. 36, s. 88.

Expenditure limit determination in certain cases.

1029.8.9.0.3.8. Despite any other provision of this division, the following rules apply:

(a) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada (in this section referred to as “the first corporation”) has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another such corporation that has a taxation year ending in that calendar year, the expenditure limit of the first corporation for each taxation year in which it

is associated with the other corporation ending in that calendar year is, subject to paragraph *b*, an amount equal to its expenditure limit for the first such taxation year determined without reference to paragraph *b*; and

(*b*) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada has a taxation year that is less than 51 weeks, its expenditure limit for the year is equal to that proportion of its expenditure limit for the year determined without reference to this paragraph that the number of days in the year is of 365.

History: 2015, c. 36, s. 88.

Credit.

1029.8.9.0.4. Where a partnership carries on a business in Canada, every taxpayer, other than a tax-exempt taxpayer, who is a member of the partnership at the end of a fiscal period of the partnership in which the partnership paid an eligible fee to an eligible research consortium, who is not a specified member of the partnership in that fiscal period and who encloses with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxpayer's taxation year in which the fiscal period ends, the prescribed form containing the prescribed information, is deemed, subject to the second paragraph, to have paid to the Minister on the taxpayer's balance-due day for that year, on account of the taxpayer's tax payable for that year under this Part, an amount equal to 14% of the taxpayer's share of the total of the aggregate of all amounts each of which is, for the fiscal period of the partnership ending in the year, an eligible fee of the partnership relating to an eligible research consortium and the aggregate of all amounts each of which is, where the partnership is a member of an eligible research consortium at the end of the fiscal period of the eligible research consortium ending in the fiscal period of the partnership, the partnership's eligible fee balance for the fiscal period relating to the eligible research consortium.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(*a*) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to

the Minister under this paragraph in the year but before that date; and

(*b*) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Taxpayer's share.

For the purposes of the first paragraph, a taxpayer's share of an amount is equal to the agreed proportion of the amount in respect of the taxpayer for the partnership's fiscal period that ends in the taxpayer's taxation year.

History: 1997, c. 14, s. 198; 1997, c. 31, s. 143; 2001, c. 51, s. 92; 2003, c. 9, s. 181; 2004, c. 21, s. 272; 2009, c. 15, s. 207; 2015, c. 21, s. 392; 2015, c. 36, s. 89.

DIVISION II.3 OTHER CREDIT FOR SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT

Definitions:

1029.8.9.1. In this division,

“*overhead expenditure*”;

“*overhead expenditure*” in respect of a pre-competitive research project, means an expenditure made by or on behalf of a taxpayer or a partnership in respect of scientific research and experimental development undertaken as part of such a project, other than

(*a*) (*paragraph repealed*);

(*b*) an expenditure of a current nature in respect of the prosecution of scientific research and experimental development in Canada directly undertaken on behalf of the taxpayer or partnership, as the case may be;

(*c*) (*paragraph repealed*);

(*d*) that portion of an expenditure incurred in respect of the salary or wages of an employee who is directly engaged in scientific research and experimental development in Canada that may reasonably be considered to be attributable to such work having regard to the time spent by the employee therein and, for that purpose, if all or substantially all of the employee's working time is spent on such scientific research and experimental development, that portion of the expenditure is deemed equal to the amount of the expenditure;

(*e*) an expenditure incurred in relation to the cost of materials consumed in the prosecution of scientific research and experimental development undertaken in Canada;

(*f*) (*paragraph repealed*);

“qualified expenditure”;

“qualified expenditure” means an expenditure made in respect of scientific research and experimental development by a taxpayer or partnership that is an expenditure referred to in subsection 1 of section 222, other than such an expenditure referred to in section 1029.8.15.1, and includes a prescribed proxy amount of a taxpayer or partnership;

“wages incurred”.

“wages incurred” in respect of scientific research and experimental development undertaken in Québec as part of a pre-competitive research project, by a taxpayer referred to in section 1029.8.10, by a partnership referred to in section 1029.8.11 or by another person on behalf of the taxpayer or partnership, means that portion of an expenditure incurred as salaries, wages or other remuneration, including bonuses, in respect of an individual, other than a trust, who is directly engaged in scientific research and experimental development that can reasonably be considered to relate to such scientific research and experimental development, having regard to the time spent by the individual thereon.

History: 1990, c. 7, s. 161; 1993, c. 64, s. 149; 1995, c. 1, s. 131; 1995, c. 49, s. 236; 1995, c. 63, s. 137; 1997, c. 3, s. 71; 1997, c. 31, s. 103; 1997, c. 85, s. 330; 2002, c. 40, s. 108; 2006, c. 13, s. 100; 2015, c. 21, s. 393.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Wages incurred.

1029.8.9.1.1. In the definition of “wages incurred” set out in section 1029.8.9.1 and for the purposes of section 1029.8.9.1.2, where scientific research and experimental development are undertaken as part of a pre-competitive research project and where no expenditure is incurred as salaries, wages or other remuneration, including bonuses, to remunerate the work of an individual, other than a trust, who is directly engaged in such scientific research and experimental development, an amount not exceeding an amount, reasonable in the circumstances, as wages that can reasonably be considered to relate to such work having regard to the time spent by the individual thereon is deemed to constitute an expenditure incurred as wages as part of the project.

History: 1993, c. 64, s. 150; 1997, c. 85, s. 330; 2006, c. 13, s. 101.

Qualified expenditure.

1029.8.9.1.2. Subject to Division II.4, for the purposes of subparagraphs *a* and *b* of the first paragraph of sections 1029.8.10 and 1029.8.11, all or any part of the amount of a qualified expenditure made in Québec by a taxpayer or a partnership as part of a pre-competitive research project that can reasonably be considered to be attributable to scientific research and experimental development undertaken in Québec as part of such a project in a taxation year of the taxpayer or a fiscal period of the partnership, is deemed not to exceed the amount that would represent the aggregate of the qualified expenditures of the taxpayer or partnership that are made in Québec in that year or period as part of that

project if each expenditure (in this section referred to as a “particular expenditure”) that is made in Québec either by the taxpayer or partnership for scientific research and experimental development directly undertaken by the taxpayer or partnership, or by another person for scientific research and experimental development directly undertaken by that other person on behalf of the taxpayer or partnership, in that year or period as part of that project, were made by the taxpayer or partnership in the same circumstances and under the same conditions and were referred to in subsection 1 of section 222 and if the aggregate of the amount of each particular expenditure, which constitutes an overhead expenditure, were limited to 55% of the aggregate of the amount of each particular expenditure which constitutes incurred wages.

History: 1993, c. 64, s. 150; 1994, c. 22, s. 316; 1995, c. 1, s. 132 [amended by 1995, c. 63, s. 545]; 1997, c. 3, s. 71; 2006, c. 13, s. 102; 2015, c. 21, s. 394.

Pre-competitive research.

1029.8.10. A taxpayer, other than a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1, who carries on a business in Canada and has entered into an agreement with a person or partnership under which the parties agree to undertake scientific research and experimental development in Québec or to cause scientific research and experimental development to be undertaken in Québec on their behalf as part of a contract and in respect of which agreement the Minister of Higher Education, Research, Science and Technology has issued a certificate recognizing that the scientific research and experimental development will be undertaken as part of a pre-competitive research project, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer’s balance-due day for the taxpayer’s taxation year during which the scientific research and experimental development related to a business of the taxpayer was undertaken, on account of the taxpayer’s tax payable for that year under this Part, if the taxpayer encloses the prescribed form containing the prescribed information and a copy of the certificate issued by the Minister of Higher Education, Research, Science and Technology with the fiscal return the taxpayer is required to file under section 1000 for that year, or would be required to file if tax were payable under this Part by the taxpayer, an amount equal to 35% of the aggregate of

(*a*) the total or part of a qualified expenditure the taxpayer has made in Québec that can reasonably be attributed to such scientific research and experimental development directly undertaken by the taxpayer in that year;

(*b*) the total or part of a qualified expenditure the taxpayer has made in Québec under a contract entered into with a person or partnership with whom or with which the taxpayer was not dealing at arm’s length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly

undertaken by the person or partnership on behalf of the taxpayer in that year; and

(c) 80% of an amount representing the total or part of a qualified expenditure the taxpayer has made in Québec under a contract entered into with a person or partnership with whom or with which the taxpayer was dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or partnership on behalf of the taxpayer in that year.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 1989, c. 5, s.213; 1990, c. 7, s.162; 1991, c. 8, s.78; 1991, c. 8, s.117; 1993, c. 19, s.104; 1993, c. 64, s.151; 1994, c. 16, s.51; 1995, c. 1, s. 133 [amended by 1995, c. 63, s. 545]; 1995, c. 63, s.138; 1997, c. 3, s.71; 1997, c. 14, s.199; 1997, c. 31, s.143; 1999, c. 8, s.19; 2003, c. 9, s.182; 2004, c. 21, s.273; 2006, c. 8, s.31; 2006, c. 13, s.103; 2009, c. 5, s.434; 2013, c. 28, s.141.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Pre-competitive research.

1029.8.11. Where a particular partnership carries on a business in Canada and has entered into an agreement with a person or partnership under which the parties agree to undertake scientific research and experimental development in Québec or to cause scientific research and experimental development to be undertaken in Québec on their behalf as part of a contract, and in respect of which agreement the Minister of Higher Education, Research, Science and Technology has issued a certificate recognizing that the scientific research and experimental development will be

undertaken as part of a pre-competitive research project, each taxpayer who is a member of the particular partnership at the end of a fiscal period of the particular partnership in which the scientific research and experimental development related to a business of the particular partnership was undertaken, who is not a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1 or a specified member of the particular partnership in that fiscal period, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer's balance-due day for that taxation year, on account of the taxpayer's tax payable for that year under this Part, if the taxpayer encloses the prescribed form containing the prescribed information and a copy of the certificate issued by the Minister of Higher Education, Research, Science and Technology with the fiscal return the taxpayer is required to file under section 1000 for the taxpayer's taxation year in which the fiscal period ends, or would be required to file if tax were payable under this Part by the taxpayer, 35% of the taxpayer's share of an amount equal to the aggregate of

(a) the total or part of a qualified expenditure the particular partnership has made in Québec that can reasonably be attributed to such scientific research and experimental development directly undertaken by the particular partnership in that fiscal period;

(b) the total or part of a qualified expenditure the particular partnership has made in Québec under a contract entered into with a person or another partnership with whom or with which a member of the particular partnership was not dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or the other partnership on behalf of the particular partnership in that fiscal period; and

(c) 80% of an amount representing the total or part of a qualified expenditure the particular partnership has made in Québec under a contract entered into with a person or another partnership with whom or with which all the members of the particular partnership were dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or the other partnership on behalf of the particular partnership in that fiscal period.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on

the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of the amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Taxpayer's share.

For the purposes of the first paragraph, a taxpayer's share of an amount is equal to the agreed proportion of the amount in respect of the taxpayer for the particular partnership's fiscal period that ends in the taxpayer's taxation year.

History: 1989, c. 5, s. 213; 1990, c. 7, s. 162; 1991, c. 8, s. 79; 1991, c. 8, s. 117; 1993, c. 19, s. 105; 1993, c. 64, s. 152; 1994, c. 16, s. 51; 1995, c. 1, s. 134 [amended by 1995, c. 63, s. 545]; 1995, c. 63, s. 139; 1997, c. 3, s. 71; 1997, c. 14, s. 200; 1997, c. 31, s. 143; 1997, c. 85, s. 249; 1999, c. 8, s. 19; 2003, c. 9, s. 183; 2004, c. 21, s. 274; 2006, c. 8, s. 31; 2006, c. 13, s. 104; 2009, c. 5, s. 435; 2009, c. 15, s. 208; 2013, c. 28, s. 141.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

1029.8.12. *(Repealed).*

History: 1989, c. 5, s. 213; 1990, c. 7, s. 163.

1029.8.13. *(Repealed).*

History: 1989, c. 5, s. 213; 1990, c. 7, s. 163.

1029.8.14. *(Repealed).*

History: 1989, c. 5, s. 213; 1990, c. 7, s. 163.

1029.8.15. *(Repealed).*

History: 1989, c. 5, s. 213; 1990, c. 7, s. 163.

Excluded expenditure.

1029.8.15.1. The expenditure to which the definition of "qualified expenditure" in section 1029.8.9.1 refers is

(a) an expenditure of a current nature incurred by or on behalf of a taxpayer or partnership in respect of the general administration or management of a business, including

i. the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific

research and experimental development, except to the extent that such expenditure is a prescribed expenditure;

ii. a legal or accounting fee;

iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179;

iv. an entertainment expense;

v. an advertising or selling expense;

vi. a conference or convention expense;

vii. a due or fee in respect of membership in a scientific or technical organization;

viii. a fine or penalty;

(b) an expenditure of a current nature incurred by or on behalf of a taxpayer or partnership for the maintenance and upkeep of premises, facilities or equipment to the extent that such expenditure is not attributable to the prosecution of scientific research and experimental development;

(c) *(paragraph repealed);*

(d) an expenditure incurred by or on behalf of a taxpayer or partnership to acquire property if such property has been used, or acquired for use or lease, for any purpose whatever before it was acquired;

(e) an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;

(f) an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.11 or 752.0.10.1 to 752.0.10.26 in computing taxable income or tax payable under this Part, as the case may be;

(g) an expenditure, to the extent that the taxpayer or partnership having incurred it or, where applicable, the person or another partnership having incurred it on behalf of the taxpayer or partnership has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than

i. the State or Her Majesty in right of Canada or a province, other than Québec,

ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or

iv. a municipality in Canada or a municipal or public body performing a function of government in Canada;

(h) an expenditure, to the extent that the taxpayer or partnership having incurred it or, where applicable, the person or another partnership having incurred it on behalf of the taxpayer or partnership has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible by the person in computing taxable income earned in Canada for a taxation year;

(i) an expenditure contemplated in section 230.0.0.2;

(j) an expenditure specified by a corporation for the purposes of clause A of subparagraph ii of paragraph a of subsection 2 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1990, c. 7, s. 164; 1991, c. 8, s. 80; 1993, c. 16, s. 333; 1993, c. 64, s. 153; 1995, c. 1, s. 135; 1995, c. 49, s. 236; 1995, c. 63, s. 140; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 1998, c. 16, s. 225; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 143; 2007, c. 12, s. 120; 2012, c. 8, s. 188; 2015, c. 21, s. 395.

1029.8.15.2. (Repealed).

History: 1990, c. 7, s. 164; 1995, c. 1, s. 136.

Rules applicable.

1029.8.16. For the purposes of this division, the following rules apply:

(a) a certificate that is revoked by the Minister of Higher Education, Research, Science and Technology is null from the time the revocation becomes effective;

(b) no amount can be deemed to have been paid by a taxpayer in respect of an expenditure referred to in section 1029.8.10 or 1029.8.11

i. if the certificate issued by the Minister of Higher Education, Research, Science and Technology in respect of the agreement referred to in section 1029.8.10 or 1029.8.11 was not in force or valid at the time the expenditure was made or at the time the scientific research and experimental development was undertaken, in the case where the expenditure was made after the date of issue of the certificate,

i.1. if the expenditure was made before the date mentioned in the certificate issued by the Minister of Higher Education, Research, Science and Technology in respect of the agreement referred to in section 1029.8.10 or 1029.8.11, in the case where the expenditure was made before the date of issue of the certificate, and

i.2. if the expenditure is made after 23 March 2006, unless it is made under an agreement referred to in section 1029.8.10

or 1029.8.11 in respect of which the Minister of Higher Education, Research, Science and Technology has issued a certificate for the purposes of this division on or before that date or received an application to obtain such a certificate on or before that date, with all the documents required to determine the taxpayer's eligibility,

ii. (subparagraph repealed);

(c) (paragraph repealed).

History: 1989, c. 5, s. 213; 1990, c. 7, s. 165; 1991, c. 8, s. 81; 1994, c. 16, s. 51; 1995, c. 63, s. 141; 1997, c. 31, s. 104; 1999, c. 8, s. 19; 2000, c. 39, s. 127; 2003, c. 9, s. 184; 2004, c. 21, s. 275; 2006, c. 8, s. 31; 2006, c. 13, s. 105; 2007, c. 12, s. 121; 2013, c. 28, s. 141.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Advance ruling required.

1029.8.16.1. An individual who is a member of a partnership shall not be deemed to have paid to the Minister his portion of an amount referred to in section 1029.8.11 unless a favourable advance ruling has been given by the Minister to the effect that the objectives of this division and, where applicable, the formalities provided for in the Securities Act (chapter V-1.1) in respect of the financing have been complied with.

History: 1993, c. 64, s. 154; 1997, c. 3, s. 71; 2010, c. 25, s. 121; 2010, c. 31, s. 89.

DIVISION II.3.0.1 CREDIT FOR PRIVATE PARTNERSHIP PRE-COMPETITIVE RESEARCH

Definitions:

1029.8.16.1.1. In this division,

“excluded contract”;

“excluded contract” means an eligible research contract within the meaning of paragraph a.2 of section 1029.8.1 or a university research contract within the meaning of paragraph b of that section;

“overhead expenditure”;

“overhead expenditure” means an expenditure made by or on behalf of a taxpayer or partnership for scientific research and experimental development undertaken under an agreement referred to in the first paragraph of section 1029.8.16.1.4 or 1029.8.16.1.5, other than

(a) (paragraph repealed);

(b) an expenditure of a current nature for the prosecution of scientific research and experimental development in Canada directly undertaken on behalf of the taxpayer or partnership, as the case may be;

(c) (paragraph repealed);

(d) that portion of an expenditure incurred for the salary or wages of an employee who is directly engaged in scientific

research and experimental development in Canada that may reasonably be considered to be attributable to such work having regard to the time spent by the employee on that work and, for that purpose, if all or substantially all of the employee's working time is spent on such scientific research and experimental development, that portion of the expenditure is deemed equal to the amount of the expenditure;

(e) an expenditure incurred in relation to the cost of materials consumed in the prosecution of scientific research and experimental development undertaken in Canada; and

(f) (*paragraph repealed*);

“public body”;

“public body” means

(a) a government, a municipality or another public authority;

(b) a body a majority of whose members come from the Québec or federal public sector, that is, are appointed by a minister, a government, a municipality, another public authority or another public body;

(c) a body whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1) or the Public Service Employment Act (Statutes of Canada, 2003, chapter 22);

(d) a body more than 50% of whose financing is derived from Québec or federal public funds, that is from the Consolidated Revenue Fund or the federal treasury, a government, a municipality, another public authority or another public body;

(e) an entity designated by the Minister as a public body; and

(f) a combination of entities or bodies referred to in any of paragraphs *a* to *e*;

“public partner”;

“public partner” at a particular time means

(a) an eligible public research centre within the meaning of paragraph *a.1* of section 1029.8.1;

(b) an eligible research consortium within the meaning of paragraph *a.1.1* of section 1029.8.1;

(c) an eligible university entity within the meaning of paragraph *f* of section 1029.8.1;

(d) a public body;

(e) a trust one of the capital or income beneficiaries of which is an eligible university entity, an eligible public research centre, an eligible research consortium or a public body;

(f) a partnership if, in the 24 months preceding the particular time, or at a later time determined by the Minister, the members of the partnership that are referred to in any of paragraphs *a* to *e* and *g* have, directly or indirectly in any manner whatever, interests in the partnership having a fair market value, at that time, of more than 50% of the fair

market value of all the members' interests in the partnership; and

(g) a corporation that, in the 24 months preceding the particular time, or at a later time determined by the Minister, is controlled, directly or indirectly in any manner whatever, by an entity, a person or a combination of entities or persons referred to in any of paragraphs *a* to *f*;

“qualified expenditure”;

“qualified expenditure” means an expenditure made in respect of scientific research and experimental development by a taxpayer or partnership that is an expenditure referred to in subsection 1 of section 222, other than such an expenditure referred to in section 1029.8.16.1.6, and includes a prescribed proxy amount;

“wages incurred”.

“wages incurred” for scientific research and experimental development undertaken in Québec under an agreement referred to in the first paragraph of section 1029.8.16.1.4 or 1029.8.16.1.5, means that portion of an expenditure incurred as salaries, wages or other remuneration, including bonuses, in respect of an individual, other than a trust, who is directly engaged in that research and development, that can reasonably be considered to relate to that research and development, having regard to the time spent by the individual on that research and development.

Member's share.

For the purposes of this division, the share of a member of a partnership of an amount for a fiscal period is equal to the agreed proportion of the amount in respect of the member for the fiscal period.

History: 2007, c. 12, s. 122; 2009, c. 15, s. 209; 2015, c. 21, s. 396.

Wages incurred.

1029.8.16.1.2. In the definition of “wages incurred” in the first paragraph of section 1029.8.16.1.1 and for the purposes of section 1029.8.16.1.3, if scientific research and experimental development is undertaken under an agreement referred to in the first paragraph of section 1029.8.16.1.4 or 1029.8.16.1.5 and if no expenditure is incurred as salaries, wages or other remuneration, including bonuses, to remunerate the work of an individual, other than a trust, who is directly engaged in that research and development, an amount not exceeding an amount, reasonable in the circumstances, as wages that can reasonably be considered to relate to that work having regard to the time spent by the individual on that work, is deemed to constitute an expenditure incurred as wages under the agreement.

History: 2007, c. 12, s. 122.

Qualified expenditure.

1029.8.16.1.3. Subject to Division II.4, for the purposes of subparagraphs *a* and *b* of the first paragraph of sections 1029.8.16.1.4 and 1029.8.16.1.5, all or part of the amount of

a qualified expenditure made in Québec by a taxpayer or partnership under an agreement referred to in the first paragraph of either of those sections that can reasonably be considered to be attributable to scientific research and experimental development undertaken in Québec under such an agreement in a taxation year of the taxpayer or a fiscal period of the partnership, is deemed not to exceed the amount that would represent the aggregate of the qualified expenditures of the taxpayer or partnership that are made in Québec in that year or period under the agreement if each expenditure (in this section referred to as a “particular expenditure”) that is made in Québec either by the taxpayer or partnership for scientific research and experimental development directly undertaken by the taxpayer or partnership, or by another person for scientific research and experimental development directly undertaken by that other person on behalf of the taxpayer or partnership, in that year or period under the agreement, were made by the taxpayer or partnership in the same circumstances and under the same conditions and were referred to in subsection 1 of section 222 and if the aggregate of the amount of each particular expenditure, which constitutes an overhead expenditure, were limited to 55% of the aggregate of the amount of each particular expenditure which constitutes incurred wages.

History: 2007, c. 12, s. 122; 2015, c. 21, s. 397.

Pre-competitive research.

1029.8.16.1.4. A taxpayer, other than a public partner or a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1, who carries on a business in Canada and has entered into an agreement with a person or partnership under which the parties agree to undertake scientific research and experimental development related to a business of the taxpayer, in Québec, or cause such research and development to be undertaken in Québec on their behalf as part of a contract, other than an excluded contract, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer’s balance-due day for a taxation year in which the research and development was undertaken, on account of the taxpayer’s tax payable for that year under this Part, if the conditions set out in the third paragraph are satisfied in respect of the parties to the agreement and if the taxpayer encloses the documents described in the fourth paragraph with the fiscal return the taxpayer is required to file under section 1000 for that year, or would be required to file if tax were payable under this Part by the taxpayer, an amount equal to 14% of the aggregate of

(a) all or part of a qualified expenditure that the taxpayer has made in Québec, that can reasonably be attributed to such research and development directly undertaken by the taxpayer in that year and that the taxpayer has paid;

(b) all or part of a qualified expenditure that the taxpayer has made in Québec under a contract entered into with a person or partnership with which the taxpayer was not dealing at arm’s length at the time the contract was entered into, that can reasonably be attributed to such research and

development directly undertaken by the person or partnership on behalf of the taxpayer in that year and that the taxpayer has paid; and

(c) 80% of an amount representing all or part of a qualified expenditure that the taxpayer has made in Québec under a contract entered into with a person or partnership with which the taxpayer was dealing at arm’s length at the time the contract was entered into, that can reasonably be attributed to such research and development directly undertaken by the person or partnership on behalf of the taxpayer in that year and that the taxpayer has paid.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer’s tax payable for the year under this Part and of the taxpayer’s tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that can reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Conditions.

The conditions to which the first paragraph refers in respect of the parties to the agreement referred to in that paragraph are as follows:

(a) the agreement must include at least two parties who are not public partners;

(b) at least two parties who are not public partners were dealing with each other at arm’s length throughout a year referred to in the first paragraph that ended after 13 March 2008; and

(c) no party who is not a public partner is related to a public partner throughout a year referred to in the first paragraph that ended after 13 March 2008.

Documents referred to.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the valid qualification certificate issued to the taxpayer by the Minister of Economy and Innovation for the purposes of this division.

History: 2007, c. 12, s. 122; 2009, c. 15, s. 210; 2013, c. 28, s. 141; 2015, c. 21, s. 398; 2015, c. 36, s. 90; 2019, c. 14, s. 307; 2019, c. 29, s. 88.

Canadian-controlled private corporation whose assets are less than \$75,000,000.

1029.8.16.1.4.1. Where the taxpayer to which section 1029.8.16.1.4 applies is a corporation that has been, throughout the taxation year referred to in that section, a corporation that is not controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada and the assets shown in its financial statements submitted to the shareholders or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown had such financial statements been prepared in accordance with generally accepted accounting principles, for its preceding taxation year or, if the corporation is in its first fiscal period, at the beginning of its first fiscal period, were less than \$75,000,000, the percentage of 14% mentioned in the first paragraph of that section is to be replaced by the percentage determined by the following formula, to the extent that it is applied to the aggregate determined under the first paragraph of section 1029.8.16.1.4 which does not exceed the expenditure limit of the corporation for the year:

$$30\% - \{[(A - \$50,000,000) \times 16\%] / \$25,000,000\}.$$

Interpretation.

In the formula in the first paragraph, A is the greater of \$50,000,000 and the assets of the corporation determined as provided in this division.

Cooperative.

Where the corporation referred to in the first paragraph is a cooperative, the first paragraph is to be read as if “submitted to the shareholders” were replaced by “submitted to the members”.

History: 2015, c. 36, s. 91.

Assets of a corporation.

1029.8.16.1.4.2. For the purposes of section 1029.8.16.1.4.1, in computing the assets of a corporation, the amount representing the surplus reassessment of its property

and the amount of its incorporeal assets are to be subtracted, to the extent that the amount shown in their respect exceeds the expenditure made in their respect.

Expenditure deemed nil.

For the purposes of the first paragraph, where all or part of an expenditure made in respect of incorporeal assets consists of shares of the corporation’s or cooperative’s capital stock, all or the part of the expenditure, as the case may be, is deemed to be nil.

History: 2015, c. 36, s. 91.

Associated corporation.

1029.8.16.1.4.3. For the purposes of section 1029.8.16.1.4.1, the assets of a corporation that is associated in a taxation year with one or more other corporations are equal to the amount by which the aggregate of the assets of the corporation and those of each corporation associated with it, determined in accordance with sections 1029.8.16.1.4.1 and 1029.8.16.1.4.2, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

History: 2015, c. 36, s. 91.

Reduction of assets.

1029.8.16.1.4.4. For the purposes of sections 1029.8.16.1.4.1 to 1029.8.16.1.4.3, where a corporation or a corporation with which it is associated reduces its assets by any transaction in a taxation year and, but for that reduction, section 1029.8.16.1.4.1 would not apply to the corporation, the assets are deemed not to have been so reduced unless the Minister decides otherwise.

History: 2015, c. 36, s. 91.

Expenditure limit.

1029.8.16.1.4.5. For the purposes of section 1029.8.16.1.4.1, the expenditure limit of a particular corporation for a taxation year equals \$3,000,000, unless the particular corporation is associated in the year with one or more other corporations that are not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada, in which case, subject to sections 1029.8.16.1.4.6 to 1029.8.16.1.4.8, its expenditure limit for the year is nil.

History: 2015, c. 36, s. 91.

Agreement among associated corporations to allocate the expenditure limit..

1029.8.16.1.4.6. Where all of the corporations that are associated with each other in a taxation year and to which section 1029.8.16.1.4.5 applies have filed with the Minister, in the prescribed form, an agreement whereby, for the purposes of section 1029.8.16.1.4.1, they allocate an amount

to one or more of them for the taxation year and the amount or the aggregate of the amounts so allocated, as the case may be, equals \$3,000,000, the expenditure limit for the year of each of the corporations is equal to the amount so allocated to it.

History: 2015, c. 36, s. 91.

Allocation of the expenditure limit by the Minister.

1029.8.16.1.4.7. Where any of the corporations that are associated with each other in a taxation year and to which section 1029.8.16.1.4.5 applies fails to file with the Minister the agreement referred to in section 1029.8.16.1.4.6 within 30 days after notice in writing by the Minister is forwarded to any of them that such an agreement is required in determining the amount deemed to have been paid to the Minister on account of the corporation's tax payable for the year under this Part, the Minister shall, for the purposes of section 1029.8.16.1.4.1, allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, must be equal to \$3,000,000, and in any such case the expenditure limit for the year of each of the corporations equals the amount so allocated to it.

History: 2015, c. 36, s. 91.

Expenditure limit determination in certain cases.

1029.8.16.1.4.8. Despite any other provision of this division, the following rules apply:

(a) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada (in this section referred to as "the first corporation") has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another such corporation that has a taxation year ending in that calendar year, the expenditure limit of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to paragraph *b*, an amount equal to its expenditure limit for the first such taxation year determined without reference to paragraph *b*; and

(b) where a corporation that is not controlled, directly or indirectly, in any manner whatever by one or more persons not resident in Canada has a taxation year that is less than 51 weeks, its expenditure limit for the year is equal to that proportion of its expenditure limit for the year determined without reference to this paragraph that the number of days in the year is of 365.

History: 2015, c. 36, s. 91.

Pre-competitive research.

1029.8.16.1.5. If a particular partnership carries on a business in Canada and has entered into an agreement under which the parties agree to undertake scientific research and experimental development related to a business of the

particular partnership, in Québec, or cause such research and development to be undertaken in Québec on their behalf as part of a contract, other than an excluded contract, each taxpayer who is a member of the particular partnership at the end of a fiscal period of the particular partnership in which the research and development was undertaken and who is not a public partner, a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1 or a specified member of the particular partnership in that fiscal period, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer's balance-due day for the taxpayer's taxation year in which that fiscal period ends, on account of the taxpayer's tax payable for that year under this Part, if the conditions set out in the third paragraph are satisfied in respect of the parties to the agreement and if the taxpayer encloses the documents described in the fourth paragraph with the fiscal return the taxpayer is required to file under section 1000 for that year, or would be required to file if tax were payable under this Part by the taxpayer, 14% of the taxpayer's share of an amount equal to the aggregate of

(a) all or part of a qualified expenditure that the particular partnership has made in Québec, that can reasonably be attributed to such research and development directly undertaken by the particular partnership in that fiscal period and that the particular partnership has paid;

(b) all or part of a qualified expenditure that the particular partnership has made in Québec under a contract entered into with a person or another partnership with which a member of the particular partnership was not dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such research and development directly undertaken by the person or the other partnership on behalf of the particular partnership in that fiscal period and that the particular partnership has paid; and

(c) 80% of an amount representing all or part of a qualified expenditure that the particular partnership has made in Québec under a contract entered into with a person or another partnership with which all the members of the particular partnership were dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such research and development directly undertaken by the person or the other partnership on behalf of the particular partnership in that fiscal period and that the particular partnership has paid.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on

the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that can reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Conditions.

The conditions to which the first paragraph refers in respect of the parties to the agreement referred to in that paragraph are as follows:

(a) the agreement must include at least two parties who are not public partners;

(b) at least two parties who are not public partners were dealing with each other at arm's length throughout a fiscal period referred to in the first paragraph that ended after 13 March 2008; and

(c) no party who is not a public partner is related to a public partner throughout a fiscal period referred to in the first paragraph that ended after 13 March 2008.

Documents referred to.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the valid qualification certificate issued by the Minister of Economy and Innovation for the purposes of this division.

History: 2007, c. 12, s. 122; 2009, c. 15, s. 211; 2013, c. 28, s. 141; 2015, c. 21, s. 399; 2015, c. 36, s. 92; 2019, c. 14, s. 308; 2019, c. 29, s. 88.

Excluded expenditure.

1029.8.16.1.6. The expenditure to which the definition of “qualified expenditure” in the first paragraph of section 1029.8.16.1.1 refers is

(a) an expenditure of a current nature incurred by or on behalf of a taxpayer or partnership in respect of the general administration or management of a business, including

i. the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific research and experimental development, except to the extent that such expenditure is a prescribed expenditure,

ii. a legal or accounting fee,

iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179,

iv. an entertainment expense,

v. an advertising or selling expense,

vi. a conference or convention expense,

vii. a due or fee in respect of membership in a scientific or technical organization, and

viii. a fine or penalty;

(b) an expenditure of a current nature incurred by or on behalf of a taxpayer or partnership for the maintenance and upkeep of premises, facilities or equipment to the extent that the expenditure is not attributable to the prosecution of scientific research and experimental development;

(c) *(paragraph repealed)*;

(d) an expenditure incurred by or on behalf of a taxpayer or partnership to acquire property if the property has been used, or acquired for use or lease, for any purpose whatever before it was acquired;

(e) an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;

(f) an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.11 or 752.0.10.1 to 752.0.10.26 in computing taxable income or tax payable under this Part, as the case may be;

(g) an expenditure, to the extent that the taxpayer or partnership having incurred it or, where applicable, the person or another partnership having incurred it on behalf of the taxpayer or partnership has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than

i. the State or Her Majesty in right of Canada or a province, other than Québec,

ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province,

other than Québec, or by a mandatory of the State or of Her Majesty in right of Canada or a province, other than Québec, or

iv. a municipality in Canada or a municipal or public body performing a function of government in Canada;

(h) an expenditure, to the extent that the taxpayer or partnership having incurred it or, where applicable, the person or another partnership having incurred it on behalf of the taxpayer or partnership has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible by the person in computing taxable income earned in Canada for a taxation year; and

(i) an expenditure described in section 230.0.0.2.

History: 2007, c. 12, s. 122; 2012, c. 8, s. 189; 2015, c. 21, s. 400.

1029.8.16.1.7. (Repealed).

History: 2007, c. 12, s. 122; 2009, c. 15, s. 212.

1029.8.16.1.8. (Repealed).

History: 2007, c. 12, s. 122; 2009, c. 15, s. 212.

Period of validity.

1029.8.16.1.9. No taxpayer may be deemed to have paid to the Minister an amount or the taxpayer's share of an amount referred to in the first paragraph of section 1029.8.16.1.4 or 1029.8.16.1.5 in respect of an agreement referred to in that first paragraph, to which that amount or that share of an amount, as the case may be, is related, for scientific research and experimental development that is undertaken under the agreement after the expiration of the three-year period that begins on the day on which the Minister of Economy and Innovation issued its last qualification certificate in respect of the agreement.

History: 2007, c. 12, s. 122; 2009, c. 15, s. 213; 2013, c. 28, s. 141; 2019, c. 29, s. 89.

DIVISION II.3.1

(Repealed).

§1. — (Repealed).

1029.8.16.2. (Repealed).

History: 2000, c. 39, s. 128; 2001, c. 51, s. 93; 2002, c. 9, s. 49; 2010, c. 25, s. 122.

1029.8.16.3. (Repealed).

History: 2000, c. 39, s. 128; 2010, c. 25, s. 122.

1029.8.16.4. (Repealed).

History: 2000, c. 39, s. 128; 2010, c. 25, s. 122.

1029.8.16.5. (Repealed).

History: 2000, c. 39, s. 128; 2010, c. 25, s. 122.

§2. — (Repealed).

1029.8.16.6. (Repealed).

History: 2000, c. 39, s. 128; 2003, c. 9, s. 185; 2004, c. 21, s. 276; 2010, c. 25, s. 122.

DIVISION II.4

**GOVERNMENT ASSISTANCE,
NON-GOVERNMENT ASSISTANCE, CONTRACT
PAYMENT AND OTHER RULES RELATING TO
TAX CREDITS FOR SCIENTIFIC RESEARCH AND
EXPERIMENTAL DEVELOPMENT**

§1. — *Interpretation*

Definitions:

1029.8.17. In this division,

(a) (paragraph repealed);

(b) (paragraph repealed);

(b.0.1) (paragraph repealed);

(b.0.2) (paragraph repealed);

“taxable supplier”;

(b.1) “taxable supplier” in respect of an amount means

i. a person resident in Canada,

ii. a Canadian partnership, or

iii. a person not resident in Canada, or a partnership that is not a Canadian partnership, where the amount is paid or payable by such person or partnership in the course of carrying on a business through an establishment in Canada;

“contract payment”.

(c) “contract payment” means

i. an amount paid or payable by a taxable supplier in respect of the amount, for scientific research and experimental development to the extent that the research and development has been undertaken for, or on behalf of, a person or partnership entitled to a deduction or a person or partnership that is carrying on a business in Canada and that would be entitled to a deduction if the person or partnership had an establishment in Québec, in respect of the amount under paragraph *b* or *c* of subsection 1 of section 222, or

ii. an amount in respect of an expenditure of a current nature (within the meaning of section 230.0.0.1.1) of a taxpayer, other than a prescribed amount, payable by the Government of Canada or a provincial government, a municipality or other Canadian public authority or by a person exempt from

tax under this Part by virtue of sections 980 to 985 and 985.23 to 999.1 for scientific research and experimental development to be performed for the authority or person, or on behalf of the authority or person,

iii. *(subparagraph repealed)*.

History: 1989, c. 5, s. 213; 1990, c. 7, s. 167; 1994, c. 22, s. 317; 1995, c. 1, s. 137; 1997, c. 31, s. 105; 2001, c. 51, s. 94; 2001, c. 53, s. 220; 2004, c. 21, s. 277; 2007, c. 12, s. 123; 2015, c. 21, s. 401.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 127(9).

Deemed contract payment.

1029.8.17.0.1. Where there is an arrangement under which an amount is paid or payable by a particular person or partnership to another person or partnership and a particular amount is received or receivable in respect of scientific research and experimental development by a person or partnership, other than the particular person or partnership or the other person or partnership, from a person or partnership that is not a taxable supplier in respect of the particular amount, and one of the main purposes of the arrangement can reasonably be considered to be to cause the particular amount not to be a contract payment, the particular amount is deemed to be a contract payment in respect of scientific research and experimental development.

History: 1997, c. 31, s. 106.

1029.8.17.0.2. *(Repealed)*.

History: 2004, c. 21, s. 278; 2007, c. 12, s. 124.

1029.8.17.1. *(Repealed)*.

History: 1995, c. 63, s. 142; 1997, c. 3, s. 71; 1997, c. 14, s. 201.

§2. — *Reduction attributable to a contract payment, government assistance or non-government assistance*

Computation.

1029.8.18. For the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by a taxpayer pursuant to any of sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.9.0.3, 1029.8.9.0.4, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, the following rules apply:

(a) the amount of the wages or of part of the consideration paid, of a qualified expenditure, except a prescribed proxy amount, of an eligible fee or of an eligible fee balance, referred to in any of sections 1029.7, 1029.8.6, 1029.8.9.0.3, 1029.8.10 and 1029.8.16.1.4, as the case may be, shall be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance attributable to the wages or to part of the consideration paid, to the qualified expenditure, to the eligible fee or to the eligible fee balance, as the case may be,

that the taxpayer has received, is entitled to receive or can reasonably expect to receive on or before the taxpayer's filing-due date for that taxation year;

(b) the share of a taxpayer who is a member of a partnership of the amount of the wages or of part of a consideration paid, of a qualified expenditure, except a prescribed proxy amount, of an eligible fee or of an eligible fee balance, referred to in any of sections 1029.8, 1029.8.7, 1029.8.9.0.4, 1029.8.11 and 1029.8.16.1.5, as the case may be, shall be reduced, where applicable,

i. by his share of the amount of any contract payment, government assistance or non-government assistance, attributable to the wages or to part of the consideration paid, to the qualified expenditure, to the eligible fee or to the eligible fee balance, as the case may be, that the partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the wages, part of the consideration, the eligible fee or the eligible fee balance were paid or the qualified expenditure was made, as the case may be, or

ii. by the amount of any government assistance or non-government assistance, attributable to the wages or part of the consideration paid, to the qualified expenditure, to the eligible fee or to the eligible fee balance, as the case may be, that the taxpayer has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the wages, part of the consideration, the eligible fee or the eligible fee balance were paid or the qualified expenditure was made, as the case may be; and

(c) if the taxpayer or a particular partnership of which the taxpayer is a member has entered into a contract with a person, another partnership, an eligible university entity, an eligible public research centre or an eligible research consortium, within the meaning of paragraph *f, a.1* or *a.1.1* of section 1029.8.1, as the case may be, with whom or with which the taxpayer, or a member of the particular partnership, was not dealing at arm's length at the time the contract was entered into,

i. the amount of a portion of the consideration paid referred to in any of subparagraphs *b, b.1, d* and *d.1* of the first paragraph of section 1029.7 or 1029.8 is to be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance attributable to the wages paid to the employees of an establishment of the person or of the other partnership situated in Québec that are referred to in that subparagraph or to the portion of an expenditure incurred in respect of the salary or wages of the employees of an establishment of the person or of the other partnership situated in Québec referred to in that subparagraph, or that would be so attributable if the person or other partnership had such employees, and if the person or other partnership has received, is entitled to receive

or can reasonably expect to receive on or before the taxpayer's filing-due date for the year, or the day that is six months after the end of the particular partnership's fiscal period that ends in the year, as the case may be,

ii. the amount of a portion of the consideration paid referred to in any of subparagraphs *f*, *f.1*, *h* and *h.1* of the first paragraph of section 1029.7 or 1029.8 is to be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance that is

(1) attributable to that portion of the consideration and that the person or other partnership has received, is entitled to receive or can reasonably expect to receive on or before the taxpayer's filing-due date for the year, or the day that is six months after the end of the particular partnership's fiscal period that ends in the year, as the case may be, or

(2) attributable to the wages paid to the employees of an establishment of another person or partnership situated in Québec that are referred to in that subparagraph or to the portion of an expenditure incurred in respect of the salary or wages of the employees of an establishment of another person or partnership situated in Québec referred to in that subparagraph, or that would be so attributable if the other person or partnership had such employees, and if the other person or partnership referred to in that subparagraph has received, is entitled to receive or can reasonably expect to receive on or before the taxpayer's filing-due date for the year, or the day that is six months after the end of the particular partnership's fiscal period that ends in the year, as the case may be,

iii. all or a portion of the amount of a qualified expenditure referred to in subparagraph *a* of the first paragraph of section 1029.8.6 or 1029.8.7 is to be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance attributable to expenditures in respect of scientific research and experimental development referred to in that subparagraph, which the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, has received, is entitled to receive or can reasonably expect to receive on or before the taxpayer's filing-due date for the year, or the day that is six months after the end of the particular partnership's fiscal period that ends in the year, as the case may be, and

iv. all or a portion of a qualified expenditure referred to in subparagraph *b* of the first paragraph of any of sections 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5 is to be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance attributable to scientific research and experimental development referred to in that subparagraph, which the person or other partnership has received, is entitled to receive or can reasonably expect to receive on or before the taxpayer's filing-due date for the year, or the day that is six months after the end of the

particular partnership's fiscal period that ends in the year, as the case may be.

Taxpayer's share.

For the purposes of subparagraph *i* of subparagraph *b* of the first paragraph, a taxpayer's share of the amount of a contract payment, government assistance or non-government assistance that the partnership has received, is entitled to receive or can reasonably expect to receive, is equal to the agreed proportion of the amount in respect of the taxpayer for the partnership's fiscal period that ends in the taxpayer's taxation year.

History: 1989, c. 5, s. 213; 1990, c. 7, s. 168; 1993, c. 19, s. 106; 1995, c. 1, s. 138; 1995, c. 63, s. 143; 1997, c. 3, s. 71; 1997, c. 14, s. 202; 1997, c. 31, s. 143; 2001, c. 51, s. 95; 2007, c. 12, s. 125; 2009, c. 15, s. 214.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Computation.

1029.8.18.0.1. For the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by a taxpayer pursuant to any of sections 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, the following rules apply:

(a) the prescribed proxy amount included in the amount of the qualified expenditure referred to in section 1029.8.10 or 1029.8.16.1.4 must be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance that may reasonably be considered to be in respect of an expenditure, other than an expenditure referred to in subparagraph *c* of the first paragraph of section 230, that the taxpayer has received, is entitled to receive or can reasonably expect to receive on or before the taxpayer's filing-due date for that taxation year;

(b) the share of a taxpayer who is a member of a partnership of the prescribed proxy amount included in the amount of the qualified expenditure referred to in section 1029.8.11 or 1029.8.16.1.5 must be reduced, where applicable,

i. by his share of the amount of any contract payment, government assistance or non-government assistance that may reasonably be considered to be in respect of an expenditure, other than an expenditure referred to in subparagraph *c* of the first paragraph of section 230, that the partnership has received, is entitled to receive or can reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the qualified expenditure was made, or

ii. by the amount of any government assistance or non-government assistance that may reasonably be considered to be in respect of an expenditure, other than an expenditure referred to in subparagraph *c* of the first paragraph of section 230, that the taxpayer has received, is entitled to receive or can reasonably expect to receive on or

before the day that is six months after the end of the fiscal period of the partnership in which the qualified expenditure was made.

Taxpayer's share.

For the purposes of subparagraph *i* of subparagraph *b* of the first paragraph, a taxpayer's share of the amount of a contract payment, government assistance or non-government assistance that the partnership has received, is entitled to receive or can reasonably expect to receive, is equal to the agreed proportion of the amount in respect of the taxpayer for the partnership's fiscal period that ends in the taxpayer's taxation year.

History: 1995, c. 1, s. 139; 1995, c. 63, s. 144; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 2007, c. 12, s. 126; 2009, c. 15, s. 215.

§3. — *Repayment of government assistance or non-government assistance*

Repayment of assistance.

1029.8.18.1. Where, at any particular time, a taxpayer pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be the repayment of government assistance or non-government assistance that reduced, by reason of subparagraph *a* of the first paragraph of section 1029.8.18 or 1029.8.18.0.1, a particular expenditure, a particular eligible fee or a particular eligible fee balance for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer under any of Divisions II to II.3.0.1, the following rules apply:

(a) the particular amount is deemed, for the purposes of that division,

i. where the assistance reduced a particular expenditure, to be an expenditure for scientific research and experimental development made at the particular time by the taxpayer on the same basis as was the particular expenditure, and

ii. where the assistance reduced a particular eligible fee or a particular eligible fee balance, to be an eligible fee or an eligible fee balance, as the case may be, for the taxation year in which the taxpayer paid the particular amount;

(b) the amount that the taxpayer is deemed to have paid to the Minister under that division in respect of the particular amount is deemed

i. to be equal to the amount that, but for the assistance, would have been deemed to have been paid to the Minister by the taxpayer under that division in respect of that portion of the particular expenditure, particular eligible fee or particular eligible fee balance corresponding to the assistance so repaid, and

ii. to have been paid to the Minister under the same provision of that division as the provision under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the particular expenditure, particular eligible fee or particular eligible fee balance corresponding to the assistance so repaid.

History: 1992, c. 1, s. 173; 1995, c. 63, s. 145; 1997, c. 14, s. 203; 2001, c. 51, s. 96; 2006, c. 36, s. 107; 2007, c. 12, s. 127; 2009, c. 5, s. 436.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Repayment of assistance by a partnership.

1029.8.18.1.1. Where, at any particular time, a partnership pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be the repayment of government assistance or non-government assistance that reduced, by reason of subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.18 or 1029.8.18.0.1, the share of a taxpayer who is a member of the partnership of a particular expenditure made by the partnership, of a particular eligible fee or of a particular eligible fee balance of the partnership, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer under any of Divisions II to II.3.0.1, the following rules apply:

(a) the particular amount is deemed, for the purposes of that division,

i. where the assistance reduced a particular expenditure, to be an expenditure for scientific research and experimental development made at the particular time by the partnership on the same basis as was the particular expenditure, and

ii. where the assistance reduced a particular eligible fee or a particular eligible fee balance, to be an eligible fee or an eligible fee balance, as the case may be, for the fiscal period of the partnership in which the partnership paid the particular amount;

(b) the amount that the taxpayer is deemed to have paid to the Minister under that division in respect of the particular amount is deemed

i. to be equal to the amount that, but for the assistance and if the agreed proportion in respect of the taxpayer for the partnership's fiscal period that ended in the taxation year were the same as that for the partnership's fiscal period that includes the particular time, would have been deemed to have been paid to the Minister by the taxpayer under that division in respect of that portion of the particular expenditure, particular eligible fee or particular eligible fee balance corresponding to the assistance so repaid, and

ii. to have been paid to the Minister under the same provision of that division as the provision under which, but for the assistance, the taxpayer would have been deemed to

have paid an amount to the Minister in respect of that portion of the particular expenditure, particular eligible fee or particular eligible fee balance corresponding to the assistance so repaid.

History: 1995, c. 63, s. 146; 1997, c. 3, s. 71; 1997, c. 14, s. 204; 2001, c. 51, s. 97; 2006, c. 36, s. 108; 2007, c. 12, s. 128; 2009, c. 5, s. 437; 2009, c. 15, s. 216.

Repayment of assistance by a member of a partnership.

1029.8.18.1.2. Where, at any particular time, a taxpayer who is a member of a partnership pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be the repayment of government assistance or non-government assistance that reduced, by reason of subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.18 or 1029.8.18.0.1, the taxpayer's share of a particular expenditure made by the partnership, of a particular eligible fee or of a particular eligible fee balance of the partnership, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer under any of Divisions II to II.3.0.1, the following rules apply:

(a) the particular amount is deemed, for the purposes of that division,

i. where the assistance reduced the taxpayer's share of a particular expenditure, to be the taxpayer's share of an expenditure for scientific research and experimental development made at the particular time by the partnership on the same basis as was the particular expenditure, and

ii. where the assistance reduced the taxpayer's share of a particular eligible fee or a particular eligible fee balance, to be an eligible fee or eligible fee balance, as the case may be, of the partnership for the fiscal period of the partnership ending in the taxation year of the taxpayer in which the taxpayer pays the particular amount;

(b) the amount that the taxpayer is deemed to have paid to the Minister under that division in respect of the particular amount is deemed

i. to be equal to the amount that, but for the assistance, would have been deemed to have been paid to the Minister by the taxpayer under that division in respect of that portion of the taxpayer's share of the particular expenditure, particular eligible fee or particular eligible fee balance corresponding to the assistance so repaid, and

ii. to have been paid to the Minister under the same provision of that division as the provision under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the taxpayer's share of the particular expenditure,

particular eligible fee or particular eligible fee balance corresponding to the assistance so repaid.

History: 1995, c. 63, s. 146; 1997, c. 3, s. 71; 1997, c. 14, s. 205; 2001, c. 51, s. 98; 2006, c. 36, s. 109; 2007, c. 12, s. 129; 2009, c. 5, s. 438.

Repayment of assistance.

1029.8.18.1.3. If, at a particular time, a person, a partnership, an eligible university entity within the meaning of paragraph *f* of section 1029.8.1, an eligible public research centre within the meaning of paragraph *a.1* of that section, or an eligible research consortium within the meaning of paragraph *a.1.1* of that section, as the case may be, pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be the repayment of government assistance or non-government assistance that the person, partnership, entity, centre or consortium received and that reduced, because of subparagraph *c* of the first paragraph of section 1029.8.18, a particular expenditure made by a taxpayer or a particular partnership, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer, or by a taxpayer who is a member of the particular partnership, under any of Divisions II, II.1, II.3 and II.3.0.1, the following rules apply:

(a) the particular amount is deemed, for the purposes of that division, to be an expenditure for scientific research and experimental development made at the particular time by the taxpayer or the particular partnership on the same basis as was the particular expenditure; and

(b) the amount that the taxpayer is deemed to have paid to the Minister under that division in respect of the particular amount is deemed

i. to be equal to the amount that, but for the assistance and, when the taxpayer is a member of the particular partnership, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ended in the taxation year were the same as that for the particular partnership's fiscal period that includes the particular time, would have been deemed to have been paid to the Minister by the taxpayer under that division in respect of that portion of the particular expenditure corresponding to the assistance so repaid, and

ii. to have been paid to the Minister under the same provision of that division as the provision under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the particular expenditure corresponding to the assistance so repaid.

History: 2007, c. 12, s. 130; 2009, c. 15, s. 217.

Deemed repayment of assistance.

1029.8.18.2. For the purposes of sections 1029.8.18.1 to 1029.8.18.1.2, an amount of assistance is deemed to be repaid, at a particular time, by a taxpayer or a partnership, as the case may be, pursuant to a legal obligation, where that amount

(a) reduced, because of section 1029.8.18, the amount of the wages or of part of the consideration paid, of a qualified expenditure, of an eligible fee or of an eligible fee balance, as the case may be, the taxpayer's share of such an amount or, because of section 1029.8.18.0.1, the prescribed proxy amount included in the amount of a qualified expenditure, or the taxpayer's share of such a prescribed proxy amount, for the purpose of computing the amount that is deemed to have been paid by the taxpayer to the Minister for a taxation year under Divisions II to II.3.0.1;

(b) was not received by the taxpayer or the partnership, and

(c) ceased, at the particular time, to be an amount that the taxpayer or the partnership can reasonably expect to receive.

History: 1994, c. 22, s. 318; 1995, c. 1, s. 140; 1995, c. 63, s. 147; 1997, c. 3, s. 71; 2001, c. 51, s. 99; 2006, c. 36, s. 110; 2007, c. 12, s. 131.

Deemed repayment of assistance.

1029.8.18.3. For the purposes of section 1029.8.18.1.3, an amount of assistance received by a person, a partnership, an eligible university entity within the meaning of paragraph *f* of section 1029.8.1, an eligible public research centre within the meaning of paragraph *a.1* of that section, or an eligible research consortium within the meaning of paragraph *a.1.1* of that section, as the case may be, is deemed to be repaid by the person, partnership, entity, centre or consortium at a particular time, pursuant to a legal obligation, if that amount

(a) reduced, because of paragraph *c* of section 1029.8.18, the amount of a portion of the consideration paid, or all or a portion of a qualified expenditure, for the purpose of computing the amount that is deemed to have been paid by a taxpayer to the Minister for a taxation year under any of Divisions II, II.1, II.3 and II.3.0.1;

(b) was not received by the person, partnership, eligible university entity, eligible public research centre or eligible research consortium; and

(c) ceased, at the particular time, to be an amount that the person, partnership, eligible university entity, eligible public research centre or eligible research consortium can reasonably expect to receive.

History: 2007, c. 12, s. 132.

§4. — Rules relating to contributions and other similar reduction rules**Reduction.**

1029.8.19. Where, in respect of a scientific research and experimental development project contemplated in any of sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.9.0.3, 1029.8.9.0.4, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, or in respect of the carrying out thereof, a person or a partnership has obtained, is entitled to obtain or can reasonably be expected to obtain a benefit or advantage, 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 that property or in any other form or manner, and it may reasonably be considered that the direct or indirect effect of such benefit or advantage is to compensate or indemnify a party to the project or to otherwise benefit such a party, in any manner whatsoever, for the purpose of computing the amount that is deemed to have been paid to the Minister, for a taxation year, by the taxpayer pursuant to any of the said sections, the amount of the wages, of the part of the consideration, of the qualified expenditure, of the eligible fee or of the eligible fee balance, as the case may be, shall be reduced by the amount of the benefit or advantage which the person or the partnership has obtained, is entitled to obtain or can reasonably be expected to obtain on or before the taxpayer's filing-due date for that taxation year.

History: 1990, c. 7, s. 169; 1993, c. 19, s. 107; 1995, c. 1, s. 141; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 31, s. 107; 2001, c. 51, s. 100; 2007, c. 12, s. 133.

Reduction where consideration is not paid in currency.

1029.8.19.1. Notwithstanding sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, where a taxpayer or a partnership causes scientific research and experimental development to be undertaken by an eligible public research centre, an eligible research consortium or an eligible university entity, within the meaning of paragraph *a.1*, *a.1.1* or *f* of section 1029.8.1, as the case may be, and the consideration payable or paid by the taxpayer or the partnership for such scientific research and experimental development does not consist in whole of currency, the taxpayer or a taxpayer who is a member of the partnership, as the case may be, is deemed not to be deemed to have paid to the Minister an amount under any of the said sections in respect of all or any part of the consideration that cannot reasonably be considered to be payable or paid in currency.

History: 1993, c. 19, s. 108; 1997, c. 3, s. 71; 2007, c. 12, s. 134.

Reduction where contribution is paid to a taxpayer or partnership.

1029.8.19.2. Notwithstanding sections 1029.7 and 1029.8, in respect of the portion of a consideration referred to in subparagraphs *c* and *g* of the first paragraph of each of

those sections, and notwithstanding sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, where, in respect of a scientific research and experimental development project referred to in any of those sections or in respect of the carrying out of such a project, a taxpayer, a partnership, a member of that partnership, a person not dealing at arm's length with the taxpayer, the partnership or any member thereof, or any other person designated by the Minister, has obtained, is entitled to obtain or may reasonably expect to obtain a contribution or, upon a determination by the Minister to that effect, is deemed to have obtained or to be entitled to obtain a contribution, from a person or a partnership who or that is a party to the project, from a person or a partnership not dealing at arm's length with that person or partnership, or from any other person or partnership designated by the Minister, a taxpayer or any taxpayer who is a member of a partnership, as the case may be, who, but for this section, would have been deemed to have paid to the Minister an amount under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraphs *c* and *g* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5 in respect of the project, is deemed not to be deemed to have paid to the Minister an amount under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraphs *c* and *g* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, in respect of the project.

Reduction where contribution is paid to a taxpayer or partnership.

Notwithstanding sections 1029.7 and 1029.8, in respect of the portion of a consideration referred to in subparagraphs *e* and *i* of the first paragraph of each of those sections, where, in respect of a contract for work relating to scientific research and experimental development referred to in those sections or in respect of the performance of the contract, a taxpayer, a partnership, a member of that partnership, a person not dealing at arm's length with the taxpayer, the partnership or any member thereof, or any other person designated by the Minister, has obtained, is entitled to obtain or may reasonably expect to obtain a contribution or, upon a determination by the Minister to that effect, is deemed to have obtained or to be entitled to obtain a contribution, from a person or a partnership who or that is a party to the work, from a person or a partnership not dealing at arm's length with that person or partnership, or from any other person or partnership designated by the Minister, a taxpayer or any taxpayer who is a member of a partnership, as the case may be, who, but for this section, would have been deemed to have paid to the Minister an amount under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraphs *e* and *i* of the first paragraph of that section, in respect of that contract, is deemed not to be deemed to have paid to the Minister an amount under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to

in subparagraphs *e* and *i* of the first paragraph of that section, in respect of that contract.

Interpretation.

A contribution to which the first paragraph refers in respect of a scientific research and experimental development project or in respect of the carrying out of such a project, or to which the second paragraph refers in respect of a contract for work relating to scientific research and experimental development or in respect of the performance of the contract, means

(a) except for the purpose of determining the amount that a taxpayer is deemed to have paid to the Minister, on account of the taxpayer's tax payable for a taxation year under section 1029.7 or 1029.8 in respect of a portion of a consideration referred to in any of subparagraphs *c*, *e*, *g* and *i* of the first paragraph of those sections, a contribution whether in the form of a payment in currency, a transfer of ownership of a property, an assignment of the use or of a right to use a property or in any other form or manner, other than a property resulting from scientific research and experimental development undertaken as part of the project or arising from the work relating to scientific research and experimental development carried out as part of the contract, as the case may be;

(b) a former, present or future right in the proceeds of disposition of part or all of the intellectual property arising from the project or contract, as the case may be;

(c) property designated by the Minister as being a contribution.

Exception.

Notwithstanding the third paragraph, where a university foundation, within the meaning of paragraph *f.1* of section 1029.8.1, becomes surety for a corporation in respect of the payment of amounts used for the financing of scientific research and experimental development provided for in a university research contract, within the meaning of paragraph *b* of section 1029.8.1, entered into before 1 January 1998 between the corporation and an eligible university entity, within the meaning of paragraph *f* of section 1029.8.1, the amount furnished under the suretyship is deemed not to be a contribution referred to in that third paragraph if

(a) the corporation carries on an eligible business throughout its taxation year in which the contract is entered into and the three preceding taxation years;

(b) the assets of the corporation 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, for its taxation year that precedes the

taxation year in which the contract is entered into, were less than \$5,000,000;

(c) the amount under the suretyship does not exceed 40% of the portion of the cost of the contract that is attributable to such scientific research and experimental development; and

(d) the term of the contract does not exceed 36 months and its cost does not exceed the proportion of \$4,500,000 that the number of months in the term of the contract is of 36.

Assets of a corporation.

For the purposes of subparagraph *b* of the fourth paragraph, sections 1029.7.3 to 1029.7.6 apply, with the necessary modifications, for the purpose of determining the assets of a corporation.

Cost of contract.

For the purposes of subparagraphs *c* and *d* of the fourth paragraph, the cost of the contract referred to in that paragraph is equal to the portion of the consideration that the corporation undertakes to pay in accordance with the contract and that is attributable to scientific research and experimental development described in the contract, less the amount of any government assistance and non-government assistance that is attributable to the portion of that consideration, that the corporation has received, is entitled to receive or may reasonably expect to receive in respect of the scientific research and experimental development project or in respect of the carrying out of the project.

Expenditure deemed not to be a contribution.

Despite the third paragraph, if an expenditure for scientific research and experimental development is incurred or borne by an eligible public research centre, an eligible research consortium or an eligible university entity, within the meaning of any of paragraphs *a.1*, *a.1.1* and *f* of section 1029.8.1, in respect of scientific research and experimental development work undertaken by the centre, consortium or entity as part of a contract referred to in any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5 entered into between a taxpayer or partnership and the centre, consortium or entity, the expenditure is deemed not to be a contribution referred to in the third paragraph.

Amount deemed not to be a contribution.

Notwithstanding the third paragraph, where, in relation to a university research contract or an eligible research contract, part of the scientific research and experimental development provided for in the contract is carried out by a person other than the eligible university entity, eligible public research centre or eligible research consortium, that is a party to the contract, in this paragraph referred to as the "recognized body", the part of the scientific research and experimental development is not deemed to be carried out by the

recognized body, in accordance with section 1029.8.9.0.1.2, and the recognized body does not directly take part in the financing of the scientific research and experimental development project by making or bearing expenditures to carry out the part of the scientific research and experimental development, the amount of that part of the scientific research and experimental development, to the extent that it would have been a contribution referred to in that third paragraph, but for this paragraph, is deemed not to be a contribution referred to in that third paragraph.

History: 1993, c. 19, s. 108; 1993, c. 64, s. 155 [amended by 1995, c. 63, s. 535]; 1995, c. 1, s. 142; 1995, c. 63, s. 148; 1997, c. 3, s. 71; 1997, c. 14, s. 206; 1999, c. 83, s. 171; 2000, c. 39, s. 129; 2002, c. 40, s. 109; 2007, c. 12, s. 135; 2009, c. 15, s. 218; 2015, c. 36, s. 98.

Exception.

1029.8.19.3. Notwithstanding section 1029.8.19.2, a taxpayer may be deemed to have paid an amount to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *c* or *g* of the first paragraph of each of those sections, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, in respect of a project referred to in the first paragraph of that section 1029.8.19.2 in which the scientific research and experimental development is undertaken, in whole or in part, on behalf of the taxpayer or the partnership of which the taxpayer is a member, by another person or partnership if, were it not for section 1029.8.19.2, an amount would have been deemed to have been paid to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *c* or *g* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5 and if each contribution referred to in the first paragraph of that section 1029.8.19.2, in respect of the project or the carrying out thereof, constitutes an expenditure made by the other person or partnership or, where subparagraph *g* of the first paragraph of section 1029.7 or 1029.8 applies, by the other person or partnership referred to in that subparagraph, to undertake, in whole or in part, the scientific research and experimental development.

Exception.

Notwithstanding section 1029.8.19.2, a taxpayer may be deemed to have paid an amount to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *e* or *i* of the first paragraph of each of those sections, under a contract referred to in the second paragraph of that section 1029.8.19.2 in which the work relating to scientific research and experimental development is undertaken, in whole or in part, on behalf of the taxpayer or the partnership of which the taxpayer is a member, by another person or partnership if, were it not for section 1029.8.19.2, an amount would have been deemed to have been paid to the Minister under

section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *e* or *i* of the first paragraph of that section and if each contribution referred to in the second paragraph of that section 1029.8.19.2, in respect of the contract or the performance of the contract, constitutes an expenditure made by the other person or partnership or, where subparagraph *i* of the first paragraph of section 1029.7 or 1029.8 applies, by the other person or partnership referred to in that subparagraph, to undertake, in whole or in part, that work.

Rules applicable.

Where the first or second paragraph applies to a taxpayer, the amount deemed to have been paid to the Minister, under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *c*, *e*, *g* or *i* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, shall be determined only on the portion of the qualified expenditure in respect of which an amount was otherwise deemed to have been paid to the Minister under that section 1029.7 or 1029.8 in respect of the portion of the consideration referred to in subparagraph *c*, *e*, *g* or *i* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5, reduced by the amount of a contribution referred to in the first paragraph of section 1029.8.19.2 in respect of the project or the carrying out thereof or in the second paragraph of that section in respect of the contract or the performance thereof, as the case may be.

History: 1993, c. 19, s. 108; 1993, c. 64, s. 155 [amended by 1995, c. 63, s. 535]; 1995, c. 1, s. 143; 1995, c. 63, s. 149; 1997, c. 14, s. 207; 1999, c. 83, s. 172; 2007, c. 12, s. 136.

1029.8.19.3.1. (Repealed).

History: 2002, c. 40, s. 110; 2003, c. 9, s. 186; 2004, c. 21, s. 279; 2007, c. 12, s. 137.

1029.8.19.4. (Repealed).

History: 1993, c. 19, s. 108; 1993, c. 64, s. 156 [amended by 1995, c. 63, s. 536]; 1995, c. 63, s. 536.

Reduction where a contribution is paid to a taxpayer or partnership.

1029.8.19.5. Notwithstanding sections 1029.7 and 1029.8, in respect of wages or the portion of a consideration referred to in any of subparagraphs *a*, *b*, *b.1*, *f* and *f.1* of the first paragraph of those sections, where, in respect of a scientific research and experimental development project contemplated in either of those sections or in respect of the carrying out of such a project, a taxpayer, a partnership, a member of that partnership, a person not dealing at arm's length with the taxpayer, the partnership or any member thereof, or any other person designated by the Minister, has obtained, is entitled to obtain or can reasonably be expected

to obtain, or, upon a determination by the Minister to that effect, is deemed to have obtained or to be entitled to obtain, from a person or a partnership who or that is a party to the project, from a person or a partnership not dealing at arm's length with that person or partnership, or from any other person or partnership designated by the Minister, a contribution, the taxpayer or any taxpayer who is a member of the partnership, as the case may be, is deemed not to be deemed to have paid to the Minister an amount under either of those sections, in respect of wages or the portion of a consideration referred to in any of subparagraphs *a*, *b*, *b.1*, *f* and *f.1* of the first paragraph of those sections, in respect of such a project.

Reduction where a contribution is paid to a taxpayer or partnership.

Notwithstanding sections 1029.7 and 1029.8, in respect of the portion of a consideration referred to in any of subparagraphs *d*, *d.1*, *h* and *h.1* of the first paragraph of each of those sections, where, in respect of a contract for work relating to scientific research and experimental development referred to in either of those subparagraphs or in respect of the performance of the contract, a taxpayer, a partnership, a member of that partnership, a person not dealing at arm's length with the taxpayer, the partnership or any member thereof, or any other person designated by the Minister, has obtained, is entitled to obtain or may reasonably expect to obtain a contribution or, upon a determination by the Minister to that effect, is deemed to have obtained or to be entitled to obtain a contribution, from a person or a partnership who or that is a party to the work, from a person or a partnership not dealing at arm's length with that person or partnership, or from any other person or partnership designated by the Minister, the taxpayer or any taxpayer who is a member of the partnership, as the case may be, is deemed not to be deemed to have paid to the Minister an amount under either of those sections, in respect of the portion of a consideration referred to in any of subparagraphs *d*, *d.1*, *h* and *h.1* of the first paragraph of each of those sections, in respect of that contract.

Interpretation.

A contribution to which the first paragraph refers in respect of a scientific research and experimental development project or in respect of the carrying out of such a project, or to which the second paragraph refers in respect of a contract for work relating to scientific research and experimental development or in respect of the performance of the contract, means

(a) a former, present or future right in the proceeds of disposition of part or all of the intellectual property arising from the project or contract, as the case may be;

(b) property designated by the Minister as being a contribution;

(c) *(subparagraph repealed)*.

History: 1993, c. 64, s. 157 [amended by 1995, c. 63, s. 537]; 1995, c. 1, s. 144 [amended by 1995, c. 63, s. 546]; 1995, c. 63, s. 150; 1997, c. 3, s. 71; 1997, c. 14, s. 208; 1999, c. 83, s. 173; 2000, c. 39, s. 130; 2002, c. 40, s. 111; 2005, c. 1, s. 222; 2007, c. 12, s. 138.

1029.8.19.5.1. *(Repealed)*.

History: 2002, c. 40, s. 112; 2003, c. 9, s. 187; 2004, c. 21, s. 280; 2005, c. 1, s. 223; 2007, c. 12, s. 139.

Contribution.

1029.8.19.6. For the purposes of section 1029.8.19.2, where, in respect of a scientific research and experimental development project or in respect of the carrying out of such project, a taxpayer or a partnership causes scientific research and experimental development to be undertaken for his or its benefit pursuant to an agreement referred to in any of sections 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5 to which the taxpayer or the partnership is a party, an expenditure made to undertake such scientific research and experimental development does not constitute, for the taxpayer or partnership, a contribution in respect of the project or the carrying out thereof, subject to a determination to the contrary by the Minister as provided for in section 1029.8.19.2, insofar as the expenditure constitutes for the taxpayer or partnership a transaction occurring in the ordinary course of a business carried on by the taxpayer or partnership, as the case may be, and would have constituted a qualified expenditure for the taxpayer or partnership if the expenditure had been made by the taxpayer or the partnership.

History: 1993, c. 64, s. 157; 1997, c. 3, s. 71; 2007, c. 12, s. 140.

Other exception to the rules relating to contributions.

1029.8.19.7. For the purposes of the first paragraph of section 1029.8.19.2, in respect of a scientific research and experimental development project referred to in that paragraph or in respect of the carrying out of such a project, and for the purposes of the second paragraph of that section, in respect of a contract for work relating to scientific research and experimental development referred to in that paragraph, or in respect of the performance of the contract, a contribution whether in the form of a payment in currency, a transfer of ownership of a property, an assignment of the use or of the right to use a property, referred to in subparagraph *a* of the third paragraph of section 1029.8.19.2, is deemed, subject to a determination to the contrary by the Minister, not to be a contribution in respect of the project or its carrying out, or in respect of the contract or its performance, as the case may be, if

(a) the contribution results from the acquisition of a property or the provision of a service following a transaction occurring in the ordinary course of a business carried on by the taxpayer, the partnership, the member or a person

referred to in the first or second paragraph of section 1029.8.19.2;

(b) the property or the provision of the service that is the subject of the transaction is acquired or supplied for an amount not exceeding its fair market value if the person or the partnership making the contribution is the purchaser of the property or of the provision of the service and for an amount that is not less than its fair market value if the person or the partnership making the contribution is the person or partnership disposing of the property or supplying the provision of the service; and

(c) the contribution is not in the form of an expenditure made to undertake the scientific research and experimental development referred to in the first paragraph of section 1029.8.19.3 or the work relating to scientific research and experimental development referred to in the second paragraph of section 1029.8.19.3, or to cause such scientific research and experimental development or such work relating to scientific research and experimental development to be undertaken.

History: 1995, c. 63, s. 151; 1997, c. 3, s. 71; 1997, c. 14, s. 209; 2002, c. 40, s. 113; 2003, c. 9, s. 188; 2004, c. 21, s. 281; 2007, c. 12, s. 141.

§5. — *Expenditure exclusion threshold*

Definitions:

1029.8.19.8. In this subdivision,

“*exclusion threshold*”;

“*exclusion threshold*” applicable to a taxpayer for a taxation year or to a partnership for a fiscal period means the amount determined under section 1029.8.19.9 in respect of the taxpayer for the year or of the partnership for the fiscal period, as the case may be;

“*reducible expenditures*”.

“*reducible expenditures*” of a taxpayer for a taxation year that begins after 2 December 2014 or of a partnership for a fiscal period that begins after that date means the aggregate of all amounts each of which is an expenditure incurred by the taxpayer or the partnership that is attributable to the year or the fiscal period, as the case may be, and that is

(a) wages referred to in subparagraph *a* of the first paragraph of section 1029.7 or 1029.8 or a portion of a consideration referred to in any of subparagraphs *b* to *i* of the first paragraph of either of those sections;

(b) an expenditure referred to in paragraph *d.1* of section 1029.8.1;

(c) an eligible fee or an eligible fee balance within the meaning assigned to those expressions by section 1029.8.9.0.2; or

(d) a qualified expenditure within the meaning assigned to that expression by the first paragraph of section 1029.8.16.1.1.

Excluded expenditure.

For the purposes of the definition of “reducible expenditures” in the first paragraph, an expenditure incurred after 2 December 2014 under a contract or agreement entered into on or before that date in respect of scientific research and experimental development does not constitute an expenditure described in the definition of that expression.

History: 2015, c. 36, s. 99.

Amount determined.

1029.8.19.9. The amount to which the definition of “exclusion threshold” in the first paragraph of section 1029.8.19.8 refers in respect of a taxpayer for a taxation year or of a partnership for a fiscal period is equal to the amount determined by the formula

$$\$50,000 + [\$175,000 \times (A - \$50,000,000) / \$25,000,000].$$

Interpretation.

In the formula in the first paragraph, A is the lesser of \$75,000,000 and the taxpayer’s or the partnership’s assets, as the case may be, shown in the taxpayer’s or partnership’s financial statements submitted, if the taxpayer is a corporation, to the shareholders or, if the taxpayer is a partnership, to the partnership’s members, or, if such financial statements have not been prepared or have not been prepared in accordance with generally accepted accounting principles, that would be shown had such financial statements been prepared in accordance with generally accepted accounting principles, for the taxpayer’s preceding taxation year or the partnership’s preceding fiscal period, as the case may be, or, if the taxpayer or the partnership is in its first fiscal period, at the beginning of its fiscal period.

Cooperative.

Where the taxpayer referred to in the second paragraph is a cooperative, the second paragraph is to be read as if “to the shareholders” were replaced by “to the members”.

Presumption.

For the purposes of the second paragraph, if the assets of a taxpayer for a taxation year or of a partnership for a fiscal period is less than \$50,000,000, they are deemed to be equal to \$50,000,000.

History: 2015, c. 36, s. 99.

Taxpayer’s or partnership’s assets.

1029.8.19.10. In computing a taxpayer’s or a partnership’s assets, for the purposes of section 1029.8.19.9, the amount of the surplus reassessment of its property and

the amount of its incorporeal assets are to be subtracted, to the extent that the amount designated in their respect exceeds the expenditure made in their respect.

Expenditure deemed nil.

For the purposes of the first paragraph, all or part of an expenditure made in respect of a taxpayer’s or a partnership’s incorporeal assets is deemed to be nil if all or part of that expenditure consists

(a) in the case of a taxpayer that is a corporation or a cooperative, as applicable, of a share of the taxpayer’s capital stock; or

(b) in the case of a partnership, of an interest in the partnership.

History: 2015, c. 36, s. 99.

Reduction of assets.

1029.8.19.11. For the purposes of section 1029.8.19.9, where a taxpayer or a partnership reduces its assets by any transaction and, but for that reduction, the exclusion threshold applicable to the taxpayer for a taxation year or to the partnership for a fiscal period would be greater, the assets are deemed not to have been so reduced unless the Minister decides otherwise.

History: 2015, c. 36, s. 99.

Determination of the exclusion threshold amount in certain cases.

1029.8.19.12. If a taxation year of a taxpayer or a fiscal period of a partnership has fewer than 51 weeks, the amount determined under section 1029.8.19.9 in respect of the taxpayer for the year or of the partnership for the fiscal period, as the case may be, is to be replaced by the proportion of that amount that the number of days in the year or the fiscal period, as the case may be, is of 365.

History: 2015, c. 36, s. 99.

Rules for computing the amount deemed paid by a taxpayer.

1029.8.19.13. For the purpose of computing the amount that a taxpayer is deemed to have paid to the Minister for a taxation year that begins after 2 December 2014, under any of sections 1029.7, 1029.8.6, 1029.8.9.0.3 and 1029.8.16.1.4 (in this section referred to as a “particular provision”), the following rules apply:

(a) the aggregate of all amounts each of which is the amount of wages that are, or of a portion of a consideration that is, referred to in any of subparagraphs *a* to *i* of the first paragraph of section 1029.7 and that is included in the taxpayer’s reducible expenditures for the year, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the exclusion threshold applicable to the

taxpayer for the year and the aggregate of those amounts for the year;

(b) the aggregate of all amounts each of which is the amount of an expenditure that is referred to in subparagraph *a* or *b* of the first paragraph of section 1029.8.6 and that is included in the taxpayer's reducible expenditures for the year, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the exclusion threshold applicable to the taxpayer for the year and the aggregate of those amounts for the year;

(c) the aggregate of all amounts each of which is the amount of an eligible fee or eligible fee balance, within the meaning assigned to those expressions by section 1029.8.9.0.2, that is included in the taxpayer's reducible expenditures for the year, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the exclusion threshold applicable to the taxpayer for the year and the aggregate of those amounts for the year;

(d) the aggregate of all amounts each of which is the amount of an expenditure that is referred to in any of subparagraphs *a* to *c* of the first paragraph of section 1029.8.16.1.4 and that is included in the taxpayer's reducible expenditures for the year, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the exclusion threshold applicable to the taxpayer for the year and the aggregate of those amounts for the year; and

(e) where the taxpayer is a corporation, the taxpayer's expenditure limit for the year, determined for the purposes of any of sections 1029.7.2, 1029.8.6.2, 1029.8.9.0.3.1 and 1029.8.16.1.4.1, is to be reduced by the amount of the reduction, determined for the year in respect of the taxpayer under any of subparagraphs *a* to *d*, that relates to that expenditure limit.

Change in the exclusion threshold amount.

For the purposes of the first paragraph, where the amount of a taxpayer's reducible expenditures for a taxation year is greater than the exclusion threshold applicable to the taxpayer for the year and the taxpayer may be deemed, but for this subdivision, to have paid an amount to the Minister for the year under more than one particular provision, the exclusion threshold otherwise applicable to the taxpayer for the year is deemed to be equal, in relation to each particular provision, to the amount determined by the formula

$$A \times B/C.$$

Interpretation.

In the formula in the second paragraph,

(a) *A* is the exclusion threshold that would otherwise be applicable to the taxpayer for the year;

(b) *B* is the aggregate of all amounts each of which is an expenditure—referred to in any of paragraphs *a* to *d* of the definition of “reducible expenditures” in the first paragraph of section 1029.8.19.8—of the taxpayer for the year in relation to the particular provision; and

(c) *C* is the taxpayer's reducible expenditures for the year.

History: 2015, c. 36, s. 99.

Rules for computing the amount deemed paid by a taxpayer that is a partnership member.

1029.8.19.14. For the purpose of computing the amount that a taxpayer that is a member of a partnership is deemed to have paid to the Minister for a taxation year in which a fiscal period of the partnership that begins after 2 December 2014 ends, under any of sections 1029.8, 1029.8.7, 1029.8.9.0.4 and 1029.8.16.1.5 (in this section referred to as a “particular provision”), the following rules apply:

(a) the aggregate of all amounts each of which is the amount of the taxpayer's share of wages that are, or of a portion of a consideration that is, referred to in any of subparagraphs *a* to *i* of the first paragraph of section 1029.8 and that is included in the partnership's reducible expenditures for the fiscal period, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the taxpayer's share of the exclusion threshold applicable to the partnership for the fiscal period and the aggregate of those amounts for the fiscal period;

(b) the aggregate of all amounts each of which is the amount of the taxpayer's share of an expenditure that is referred to in subparagraph *a* or *b* of the first paragraph of section 1029.8.7 and that is included in the partnership's reducible expenditures for the fiscal period, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the taxpayer's share of the exclusion threshold applicable to the partnership for the fiscal period and the aggregate of those amounts for the fiscal period;

(c) the aggregate of all amounts each of which is the amount of the taxpayer's share of an eligible fee or eligible fee balance, within the meaning assigned to those expressions by section 1029.8.9.0.2, that is included in the partnership's reducible expenditures for the fiscal period, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the taxpayer's share of the exclusion threshold applicable to the partnership for the fiscal period and the aggregate of those amounts for the fiscal period; and

(d) the aggregate of all amounts each of which is the amount of the taxpayer's share of an expenditure that is referred to in any of subparagraphs *a* to *c* of the first paragraph of section 1029.8.16.1.5 and that is included in the partnership's reducible expenditures for the fiscal period, determined with reference to subdivisions 2, 4 and 6, is to be reduced by the lesser of the taxpayer's share of the exclusion threshold

applicable to the partnership for the fiscal period and the aggregate of those amounts for the fiscal period.

Change in a taxpayer's share of the exclusion threshold amount.

For the purposes of the first paragraph, where the amount of a partnership's reducible expenditures for a fiscal period is greater than the exclusion threshold applicable to the partnership for the fiscal period and a taxpayer that is a member of the partnership may be deemed, but for this subdivision, to have paid an amount to the Minister for the taxation year in which that fiscal period ends under more than one particular provision in relation to the partnership, the taxpayer's otherwise determined share of the exclusion threshold applicable to the partnership for the fiscal period that ends in the year is deemed to be equal, in relation to each particular provision, to the amount determined by the formula

$$A \times B/C.$$

Interpretation.

In the formula in the second paragraph,

(a) A is the exclusion threshold applicable to the partnership for the fiscal period that ends in the year;

(b) B is the aggregate of all amounts each of which is the taxpayer's share of an expenditure—referred to in any of paragraphs *a* to *d* of the definition of “reducible expenditures” in the first paragraph of section 1029.8.19.8—of the partnership for the fiscal period that ends in the year in relation to the particular provision; and

(c) C is the partnership's reducible expenditures for the fiscal period that ends in the year.

Taxpayer's share.

For the purposes of this section, the taxpayer's share of an amount is equal to the agreed proportion of the amount in respect of the taxpayer for the partnership's fiscal period that ends in the taxpayer's taxation year.

History: 2015, c. 36, s. 99.

Allocation of the exclusion threshold amount.

1029.8.19.15. For the purposes of sections 1029.8.19.13 and 1029.8.19.14, where the amount that reduces an aggregate described in any of subparagraphs *a* to *d* of the first paragraph of either of those sections is equal to the exclusion threshold applicable to the taxpayer for a taxation year or to a taxpayer's share of a partnership's exclusion threshold for a fiscal period that ends in a taxation year, as the case may be, the taxpayer may designate which of the taxpayer's expenditures or of the taxpayer's share of the expenditures included in the aggregate described in that subparagraph is to be reduced by all or part of the taxpayer's exclusion threshold for the year or of the taxpayer's share of

the exclusion threshold applicable to the partnership for the fiscal period that ends in the year, as the case may be.

History: 2015, c. 36, s. 99.

§6. — *Various rules*

Taxpayer deemed not to carry on a business.

1029.8.20. Where a taxpayer carries on a business in Canada in a taxation year by reason of an arrangement, a transaction or an event, or of a series of arrangements, transactions or events, and it may reasonably be considered that one of the purposes of the arrangement, transaction or event or of the series of arrangements, transactions or events is to cause the taxpayer to carry on the business so as to allow the taxpayer to be deemed to have paid an amount to the Minister for that taxation year under any of sections 1029.7, 1029.8.6, 1029.8.9.0.3 and 1029.8.10, the taxpayer is, for the purposes of those sections, deemed not to carry on the business in that year by reason of the arrangement, transaction or event or of the series of arrangements, transactions or events unless the taxpayer is, by reason of the arrangement, transaction or event or of the series of arrangements, transactions or events, a member of a partnership other than a specified member of that partnership.

History: 1990, c. 7, s. 169; 1993, c. 19, s. 109; 2000, c. 39, s. 131; 2006, c. 13, s. 106; 2009, c. 5, s. 439.

1029.8.20.1. (*Repealed*).

History: 2000, c. 39, s. 132; 2010, c. 25, s. 123.

Scientific research and experimental development related to a business.

1029.8.21. For the purposes of Divisions II to II.4, where a taxpayer is a corporation, scientific research and experimental development related to a business carried on by another corporation to which the taxpayer is related, otherwise than by reason of a right referred to in paragraph *b* of section 20, and in which that other corporation is actively engaged at the time at which an expenditure or payment in respect of scientific research and experimental development is made by the taxpayer, shall be considered to be related to a business of the taxpayer at that time.

History: 1990, c. 59, s. 345; 1997, c. 3, s. 71; 2004, c. 21, s. 282.

Scientific research and experimental development undertaken by a partnership.

1029.8.21.0.1. In determining, for the purposes of Divisions II to II.4, whether work undertaken by or on behalf of a partnership constitutes scientific research and experimental development, the references in subsection 3 of section 222 to “taxpayer” shall be read as references to “partnership”.

History: 2000, c. 5, s. 249.

Property available for use.

1029.8.21.1. For the purposes of Divisions II, II.1, II.3 and II.3.0.1, expenditures made by a taxpayer or a partnership to acquire property described in paragraph *a* of section 223 is deemed not to have been made before the property is considered to have become available for use by the taxpayer or the partnership, without reference to subparagraph *c* of the first paragraph of section 93.7 and subparagraph *d* of the first paragraph of section 93.8.

History: 1993, c. 16, s. 334; 1997, c. 3, s. 71; 2004, c. 21, s. 283; 2007, c. 12, s. 142.

1029.8.21.2. *(Repealed).*

History: 1993, c. 19, s. 110; 1995, c. 63, s. 152; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 2000, c. 39, s. 133; 2007, c. 12, s. 143; 2010, c. 25, s. 124; 2015, c. 21, s. 402.

Interpretation Bulletins: IMP. 1029.8.17-1/R1.

1029.8.21.3. *(Repealed).*

History: 1995, c. 1, s. 145; 1995, c. 63, s. 153; 1997, c. 14, s. 210; 1997, c. 31, s. 108; 2000, c. 5, s. 250; 2000, c. 39, s. 134; 2001, c. 51, s. 101; 2002, c. 9, s. 50.

Misclassified expenditures.

1029.8.21.3.1. A taxpayer may not be deemed to have paid an amount to the Minister on account of the taxpayer's tax payable for a particular taxation year under any of sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.9.0.3, 1029.8.9.0.4, 1029.8.10, 1029.8.11, 1029.8.16.1.4 and 1029.8.16.1.5 in respect of an expenditure that is wages or part of a consideration, a qualified expenditure, an eligible fee or an eligible fee balance, as the case may be, if that expenditure is deemed not to be an expenditure on or in respect of scientific research and experimental development because of the application of section 230.0.0.5.

History: 2000, c. 5, s. 251; 2001, c. 51, s. 102; 2007, c. 12, s. 144.

1029.8.21.3.2. *(Repealed).*

History: 2006, c. 13, s. 107; 2009, c. 5, s. 440.

DIVISION II.4.1

(Repealed).

1029.8.21.4. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 36, s. 160(1); O.C. 1312-99; 1999, c. 83, s. 174; 2000, c. 5, s. 252; 2001, c. 51, s. 228; 2003, c. 9, s. 189.

1029.8.21.5. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 36, s. 160(1); O.C. 1312-99; 2003, c. 9, s. 189.

1029.8.21.6. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 36, s. 160(1); O.C. 1312-99; 2003, c. 9, s. 189.

1029.8.21.7. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 36, s. 160(1); O.C. 1312-99; 1999, c. 83, s. 175; 2003, c. 9, s. 189.

1029.8.21.8. *(Repealed).*

History: 1997, c. 85, s. 250; 2003, c. 9, s. 189.

1029.8.21.9. *(Repealed).*

History: 1997, c. 85, s. 250; 2003, c. 9, s. 189.

1029.8.21.10. *(Repealed).*

History: 1997, c. 85, s. 250; 2003, c. 9, s. 189.

1029.8.21.11. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 83, s. 176; 2001, c. 7, s. 169; 2003, c. 9, s. 189.

1029.8.21.12. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 83, s. 177; 2001, c. 7, s. 169; 2003, c. 9, s. 189.

1029.8.21.13. *(Repealed).*

History: 1997, c. 85, s. 250; 1999, c. 83, s. 178; 2001, c. 7, s. 169; 2003, c. 9, s. 189.

1029.8.21.14. *(Repealed).*

History: 1997, c. 85, s. 250; 2003, c. 9, s. 189.

1029.8.21.15. *(Repealed).*

History: 1997, c. 85, s. 250; 2003, c. 9, s. 189.

1029.8.21.16. *(Repealed).*

History: 1997, c. 85, s. 250; 2003, c. 9, s. 189.

DIVISION II.4.2**CREDIT FOR TECHNOLOGICAL ADAPTATION SERVICES**§1. — *Interpretation and general***Definitions:**

1029.8.21.17. In this division,

“*eligible college centre for the transfer of technology*”;
“*eligible college centre for the transfer of technology*” means a college centre for the transfer of technology that is authorized under the General and Vocational Colleges Act (chapter C-29);

“eligible liaison and transfer centre”;

“eligible liaison and transfer centre” means a prescribed liaison and transfer centre;

“eligible liaison and transfer service”;

“eligible liaison and transfer service” means a prescribed liaison and transfer product or service;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation that, in the year, has an establishment in Québec and carries on a qualified business in Québec, but does not include;

(a) a corporation that is exempt from tax for the year under Book VIII; or

(b) a corporation that would be exempt from tax for the year under section 985, but for section 192;

“qualified expenditure”;

“qualified expenditure” of a qualified corporation for a taxation year or of a qualified partnership for a fiscal period means an amount incurred by the qualified corporation in the year or by the qualified partnership in the fiscal period, as the case may be, under a contract entered into with an eligible liaison and transfer centre or an eligible college centre for the transfer of technology, that is, to the extent that that amount is paid, the aggregate of

(a) 80% of the fees relating to an eligible liaison and transfer service provided in Québec by the eligible liaison and transfer centre or the eligible college centre for the transfer of technology, as the case may be; and

(b) attendance fees for training and information activities undertaken in Québec in relation to an eligible liaison and transfer service offered by the eligible liaison and transfer centre or the eligible college centre for the transfer of technology, as the case may be;

“qualified partnership”.

“qualified partnership” for a fiscal period means a partnership that, if it were a corporation, would be a qualified corporation for that fiscal period.

Rules applicable to an expenditure.

For the purposes of the definition of “qualified expenditure” in the first paragraph, the following rules apply:

(a) only the fees for occasional appreciation training activities, otherwise than as part of a regular training program, may be taken into account as fees for training activities referred to in paragraph *b* of that definition;

(b) the aggregate of the expenditures referred to in paragraph *a* or *b* of that definition is to be reduced by the aggregate of all amounts each of which is the amount of government assistance or non-government assistance, to the extent that the amount of that assistance is attributable to the expenditure to which it relates, that the corporation or partnership has received, is entitled to receive or may

reasonably expect to receive, on or before, in the case of the corporation, the corporation’s filing-due date for the year and, in the case of the partnership, the day that is six months after the end of the fiscal period; and

(c) no expenditure may be taken into account if it is

i. a consideration described in the third paragraph of section 1029.7 or 1029.8,

ii. an expenditure described in paragraph *d.1* of section 1029.8.1, or

iii. a qualified expenditure, within the meaning of the first paragraph of section 1029.8.16.1.1.

Eligible college centre for the transfer of technology.

For the purposes of the definition of “eligible college centre for the transfer of technology” in the first paragraph, a college centre for the transfer of technology or a research centre affiliated with such a centre that, on 30 June 2016, was an eligible college centre for the transfer of technology under that definition, as it read on that date, is deemed to be, on 1 July 2016, a college centre for the transfer of technology that is authorized under the General and Vocational Colleges Act.

History: 2000, c. 39, s. 135; 2001, c. 51, s. 228; 2001, c. 53, s. 260; 2002, c. 9, s. 51; 2002, c. 40, s. 114; 2003, c. 29, s. 149; O.C. 222-2004; 2005, c. 1, s. 224; 2005, c. 23, s. 146; 2011, c. 1, s. 60; 2015, c. 21, s. 403; 2017, c. 1, s. 273; 2019, c. 14, s. 309.

1029.8.21.17.1. (Repealed).

History: 2002, c. 40, s. 115; 2005, c. 23, s. 147.

1029.8.21.17.2. (Repealed).

History: 2002, c. 40, s. 115; 2005, c. 23, s. 147.

1029.8.21.17.3. (Repealed).

History: 2002, c. 40, s. 115; 2005, c. 23, s. 147.

1029.8.21.18. (Repealed).

History: 2000, c. 39, s. 135; 2002, c. 40, s. 116; 2005, c. 23, s. 147.

1029.8.21.19. (Repealed).

History: 2000, c. 39, s. 135; 2002, c. 40, s. 116; 2005, c. 1, s. 225; 2005, c. 23, s. 147.

1029.8.21.20. (Repealed).

History: 2000, c. 39, s. 135; 2002, c. 40, s. 116; 2005, c. 23, s. 147.

1029.8.21.21. (Repealed).

History: 2000, c. 39, s. 135; 2002, c. 40, s. 116; 2005, c. 23, s. 147.

§2.— *Credits***Credit for corporations.**

1029.8.21.22. A qualified corporation that, in a taxation year, incurs a qualified expenditure is deemed, subject to the second paragraph, to have paid to the Minister on the corporation's balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 40% of the qualified expenditure, if it encloses, with its fiscal return it is required to file for the year under section 1000, the prescribed form containing the prescribed information and a copy of the receipt issued by the eligible college centre for the transfer of technology or the eligible liaison and transfer centre, as the case may be, in respect of the expenditure.

Computation of payments.

For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2000, c. 39, s. 135; 2001, c. 53, s. 260; 2003, c. 9, s. 190; 2004, c. 21, s. 284; 2005, c. 23, s. 148; 2015, c. 21, s. 404.

Credit for corporations that are members of a partnership.

1029.8.21.23. Where a qualified partnership incurs a qualified expenditure in a fiscal period, each qualified corporation that is a member of the partnership at the end of that fiscal period is deemed, subject to the second paragraph, to have paid to the Minister on the corporation's balance-due day for the corporation's taxation year in which that fiscal period ends, on account of the corporation's tax payable for that year under this Part, an amount equal to 40% of the corporation's share, for that fiscal period, of the expenditure, if it encloses, with its fiscal return it is required to file for the

taxation year under section 1000, the prescribed form containing the prescribed information and a copy of the receipt issued by the eligible college centre for the transfer of technology or the eligible liaison and transfer centre, as the case may be, in respect of the expenditure.

Computation of payments.

For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, for its taxation year in which the fiscal period of the qualified partnership ends, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2000, c. 39, s. 135; 2001, c. 53, s. 260; 2003, c. 9, s. 191; 2004, c. 21, s. 285; 2005, c. 23, s. 149; 2015, c. 21, s. 405.

Qualified corporation's share.

1029.8.21.24. For the purposes of section 1029.8.21.23, a qualified corporation's share of a qualified expenditure incurred in a fiscal period by a qualified partnership of which the qualified corporation is a member is equal to the agreed proportion of the expenditure in respect of the qualified corporation for the fiscal period.

History: 2000, c. 39, s. 135; 2009, c. 15, s. 219.

Assistance received by a member of a partnership.

1029.8.21.25. Where a corporation referred to in section 1029.8.21.23 has received, is entitled to receive or may reasonably expect to receive, on or before the day that is six months after the end of the fiscal period referred to in that section, government assistance or non-government assistance in respect of an expenditure included in computing the qualified expenditure incurred by the partnership in that fiscal period, the qualified expenditure shall, for the purpose of computing the amount deemed to have been paid to the Minister by the corporation under that section 1029.8.21.23

for the taxation year referred to therein in relation to the qualified expenditure, be determined as if

(a) the amount of the assistance had been received by the partnership during the fiscal period; and

(b) the amount of the assistance were equal to the product obtained by multiplying the amount of assistance otherwise determined by the reciprocal of the agreed proportion in respect of the corporation for the partnership's fiscal period.

History: 2000, c. 39, s. 135; 2009, c. 15, s. 220.

Repayment of assistance by a corporation.

1029.8.21.26. Where a corporation pays, in a taxation year, in this section referred to as the "repayment year", pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of government assistance or non-government assistance referred to in subparagraph *b* of the second paragraph of section 1029.8.21.17 that was taken into account for the purpose of computing a qualified expenditure incurred by the corporation in a particular taxation year and in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.21.22 for the particular taxation year, the corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file for the repayment year under section 1000, to have paid to the Minister on the corporation's balance-due day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year, in respect of the qualified expenditure, under section 1029.8.21.22, if any amount of such assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the aggregate determined under that subparagraph *b*, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister under section 1029.8.21.22 for the particular year, in respect of the qualified expenditure; and

(b) any amount that the corporation is deemed to have paid to the Minister under this section for a taxation year preceding the repayment year, in respect of an amount of repayment of that assistance.

History: 2000, c. 39, s. 135; 2002, c. 40, s. 117.

Repayment of assistance by a partnership.

1029.8.21.27. Where a partnership pays, in a fiscal period, in this section referred to as the "fiscal period of repayment", pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of government assistance or non-government assistance referred to in subparagraph *b* of the second paragraph of section 1029.8.21.17 that was taken into account for the purpose of computing a qualified expenditure incurred by the partnership in a particular fiscal period ending in a particular

taxation year and in respect of which a corporation that is a member of the partnership at the end of the particular fiscal period is deemed to have paid an amount to the Minister under section 1029.8.21.23 for the particular taxation year, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if it encloses the prescribed form with the fiscal return it is required to file for that year under section 1000 and is a member of the partnership at the end of the fiscal period of repayment, an amount equal to the amount by which

(a) the amount that the corporation would be deemed to have paid to the Minister under section 1029.8.21.23 for the particular year, in respect of the qualified expenditure, if

i. any amount of such assistance so repaid at or before the end of the fiscal period of repayment reduced, for the particular fiscal period, the aggregate determined under subparagraph *b* of the second paragraph of section 1029.8.21.17, and

ii. the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; exceeds

(b) the aggregate of

i. the amount that the corporation would be deemed to have paid to the Minister under section 1029.8.21.23 for the particular year, in respect of the qualified expenditure, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

ii. any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

History: 2000, c. 39, s. 135; 2002, c. 40, s. 118; 2006, c. 36, s. 111; 2009, c. 15, s. 221.

Repayment of assistance by a member of a partnership.

1029.8.21.28. Where a corporation that is a member of a partnership pays, in a fiscal period of the partnership, in this section referred to as the "fiscal period of repayment", pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of government assistance or non-government assistance, in respect of an expenditure included in computing a qualified expenditure incurred by the partnership in a particular fiscal period, that is referred to in the portion of section 1029.8.21.25 before paragraph *a* and that, pursuant to that section, reduced the qualified expenditure pursuant to subparagraph *b* of the second

paragraph of section 1029.8.21.17, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.21.23, in respect of the qualified expenditure, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if it encloses the prescribed form with the fiscal return it is required to file for that year under section 1000 and is a member of the partnership at the end of the fiscal period of repayment, an amount equal to the amount by which

(a) the amount that the corporation would be deemed to have paid to the Minister under section 1029.8.21.23 for its taxation year in which the particular fiscal period ends, in respect of the qualified expenditure, if

i. the aggregate determined under subparagraph *b* of the second paragraph of section 1029.8.21.17 were reduced, for the particular fiscal period, by the product obtained by multiplying any amount of such assistance so repaid at or before the end of the fiscal period of repayment by the reciprocal of the agreed proportion in respect of the corporation for the fiscal period of repayment, and

ii. except for the purposes of section 1029.8.21.25, the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; exceeds

(b) the aggregate of

i. the amount that the corporation would be deemed to have paid to the Minister under section 1029.8.21.23 for its taxation year in which the particular fiscal period ends, in respect of the qualified expenditure, if, except for the purposes of section 1029.8.21.25, the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

ii. any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the corporation, if, except for the purposes of section 1029.8.21.25, the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

History: 2000, c. 39, s. 135; 2002, c. 40, s. 119; 2006, c. 36, s. 112; 2009, c. 15, s. 222.

Deemed repayment of assistance.

1029.8.21.29. For the purposes of sections 1029.8.21.26 to 1029.8.21.28, an amount of assistance is deemed to be repaid, at a particular time, by a corporation or a partnership,

as the case may be, pursuant to a legal obligation, where that amount

(a) reduced, because of subparagraph *b* of the second paragraph of section 1029.8.21.17 or because of section 1029.8.21.25, the qualified expenditure referred to in the first paragraph of section 1029.8.21.17, for the purpose of computing the amount that the corporation or a corporation that is a member of the partnership is deemed to have paid to the Minister under section 1029.8.21.22 or 1029.8.21.23;

(b) was not received by the corporation or partnership; and

(c) ceased at the particular time to be an amount that the corporation or partnership may reasonably expect to receive.

History: 2000, c. 39, s. 135.

Benefit or advantage.

1029.8.21.30. Where, in respect of a qualified expenditure, a person or a partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that a qualified corporation is deemed to have paid to the Minister under section 1029.8.21.22 for a particular taxation year, any amount of assistance referred to in subparagraph *b* of the second paragraph of section 1029.8.21.17 in respect of the qualified corporation for the particular year, in relation to the qualified expenditure, shall be increased by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation's filing-due date for the particular year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.21.23 by a qualified corporation that is a member of a qualified partnership at the end of a particular fiscal period of the qualified partnership ending in the year, any amount of assistance referred to in subparagraph *b* of the second paragraph of section 1029.8.21.17 in respect of the partnership for that fiscal period, in relation to the qualified expenditure, shall be increased by

i. the amount of the benefit or advantage that a partnership or a person other than a person referred to in subparagraph ii has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the particular fiscal period, and

ii. the product obtained by multiplying the amount of the benefit or advantage that the qualified corporation or a person with whom the qualified corporation is not dealing at

arm's length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the particular fiscal period, by the reciprocal of the agreed proportion in respect of the qualified corporation for the particular fiscal period.

History: 2000, c. 39, s. 135; 2004, c. 21, s. 286; 2009, c. 15, s. 223.

1029.8.21.31. *(Repealed).*

History: 2000, c. 39, s. 135; 2001, c. 53, s. 260; 2002, c. 9, s. 52.

DIVISION II.4.3

(Repealed).

§1. — *(Repealed).*

1029.8.21.32. *(Repealed).*

History: 2001, c. 51, s. 103; 2002, c. 9, s. 53; 2002, c. 40, s. 120; 2005, c. 1, s. 226; 2009, c. 15, s. 224.

1029.8.21.33. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.34. *(Repealed).*

History: 2001, c. 51, s. 103; 2002, c. 40, s. 121; 2009, c. 15, s. 224.

1029.8.21.35. *(Repealed).*

History: 2001, c. 51, s. 103; 2005, c. 23, s. 150; 2009, c. 15, s. 224.

1029.8.21.36. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.37. *(Repealed).*

History: 2001, c. 51, s. 103; 2002, c. 40, s. 122; 2009, c. 15, s. 224.

1029.8.21.38. *(Repealed).*

History: 2001, c. 51, s. 103; 2002, c. 40, s. 123; 2005, c. 1, s. 227; 2009, c. 15, s. 224.

1029.8.21.39. *(Repealed).*

History: 2001, c. 51, s. 103; 2002, c. 40, s. 124; 2009, c. 15, s. 224.

1029.8.21.40. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.41. *(Repealed).*

History: 2001, c. 51, s. 103; 2002, c. 40, s. 125; 2009, c. 15, s. 224.

§2. — *(Repealed).*

1029.8.21.42. *(Repealed).*

History: 2001, c. 51, s. 103; 2003, c. 9, s. 192; 2009, c. 15, s. 224.

1029.8.21.43. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.44. *(Repealed).*

History: 2001, c. 51, s. 103; 2003, c. 9, s. 193; 2009, c. 15, s. 224.

1029.8.21.45. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

§3. — *(Repealed).*

1029.8.21.46. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.47. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.48. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.49. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.50. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.

1029.8.21.51. *(Repealed).*

History: 2001, c. 51, s. 103; 2009, c. 15, s. 224.