

LEGISLATIVE PROPOSALS RELATING TO THE INCOME TAX ACT AND THE INCOME TAX REGULATIONS

Income Sprinkling

1 (1) The definitions *excluded amount* and *specified individual* in subsection 120.4(1) of the *Income Tax Act* are replaced by the following:

excluded amount, in respect of an individual for a taxation year, means an amount that is the individual's income for the year from, or the individual's taxable capital gain or profit for the year from the disposition of, a property if the amount

(a) if the individual has not attained the age of 24 years before the year, is from a property that was acquired by or for the benefit of the individual as a consequence of the death of a person who is,

(i) a parent of the individual, or

(ii) any person, if the individual is

(A) enrolled as a full-time student during the year at a *post-secondary educational institution* (as defined in subsection 146.1(1)), or

(B) an individual in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year; and

(b) if the individual has attained the age of 17 years before the year, is not a split portion of an amount in respect of the individual. (*montant exclu*)

specified individual, for a taxation year, means an individual (other than a trust) who

(a) is resident in Canada

(i) in the case where the individual dies in the year, immediately before the death, and

(ii) in any other case, at the end of the year; and

(b) is related to another individual (referred to in this paragraph as the ***other individual***) who

(i) is not a trust,

(ii) is resident in Canada at any time in the year, and

(iii) either

(A) if the individual has not attained the age of 17 years before the year, is a parent of the individual, or

(B) is related to the individual, if

(I) the individual's income from the year includes an amount that is

1 income from, or a taxable capital gain or profit from the disposition of, a property, or

2 included in the individual's income because of section 15 or 246,

(II) it can reasonably be considered that the amount referred to in subclause (I) is derived, directly or indirectly, from a business (including in circumstances described in paragraph (g) of the definition *split income*), and

(III) the business referred to in subclause (II) is, at any time in the year or a previous year, carried on by

1 the other individual,

2 a corporation of which the other individual is, at any time in the relevant year, a specified shareholder or in respect of which the other individual is, at any time in the relevant year, a connected individual,

3 a partnership or trust, if the other individual is actively engaged on a regular basis in the activities of the partnership or trust related to earning income from a business or the rental of property, or

4 a partnership in which the other individual has an interest, including directly or indirectly through one or more partnerships. (*particulier déterminé*)

(2) Subparagraph (b)(ii) of the definition *split income* in subsection 120.4(1) of the Act is replaced by the following:

(ii) can reasonably be considered to be income derived, directly or indirectly, from one or more related sources for the year in respect of the individual,

(3) Subparagraph (c)(ii) of the definition *split income* in subsection 120.4(1) of the Act is amended by adding “or” at the end of clause (B) and by replacing clauses (C) and (D) with the following:

(C) to be income derived, directly or indirectly, from one or more related sources for the year in respect of the individual,

(4) The definition *split income* in subsection 120.4(1) of the Act is amended by adding the following after paragraph (c):

(d) an amount included in computing the individual’s income for the year to the extent that the amount

(i) is in respect of a debt obligation

(A) of a corporation (other than a mutual fund corporation or a corporation shares of a class of the capital stock of which are listed on a designated stock exchange), partnership or trust (other than a mutual fund trust), and

(B) that is not

(I) described in paragraph (a) of the definition *fully exempt interest* in subsection 212(3),

(II) listed or traded on a public market, or

(III) a deposit, standing to the credit of the individual,

1 within the meaning assigned by the *Canada Deposit Insurance Corporation Act*, or

2 with a credit union or a branch in Canada of a bank, and

(ii) can reasonably be considered to meet one of the following conditions:

(A) in the case of a debt obligation of a partnership or trust, the amount is derived, directly or indirectly, from

(I) one or more related sources for the year in respect of the individual, or

- (II) any other amount that would, if it were received by the individual in the year, be split income of the individual, or
 - (B) in the case of a debt obligation of a corporation, the amount is paid or payable by the corporation if a person related to the individual is at any time in the year
 - (I) a specified shareholder of the corporation, or
 - (II) a connected individual in respect of the corporation,
- (e) an amount in respect of a property
 - (i) to the extent that the amount
 - (A) is a taxable capital gain, or a profit, of the individual for the year from the disposition after 2017 of the property, or
 - (B) is included under subsection 104(13) or 105(2) in computing the individual's income for the year and can reasonably be considered to be attributable to a taxable capital gain, or a profit, of any person or partnership for the year from the disposition after 2017 of the property, and
 - (ii) the property is
 - (A) a share of the capital stock of a corporation (other than a share of a class listed on a designated stock exchange or a share of the capital stock of a mutual fund corporation), or
 - (B) a property in respect of which the following conditions are met:
 - (I) the property is
 - 1 an interest in a partnership,
 - 2 an interest as a beneficiary under a trust (other than a mutual fund trust or a trust that is deemed to be in existence by subsection 143(1)), or
 - 3 a debt obligation (other than a debt obligation described in any of subclauses (d)(i)(B)(I) to (III)), and
 - (II) either
 - 1 in respect of the property an amount is included in the individual's split income for the year or an earlier taxation year, or
 - 2 all or any part of the fair market value of the property, immediately before the disposition referred to in clause (i)(A) or (B), as the case may be, is derived, directly or indirectly, from a share described in clause (A),
- (f) an amount included in computing the individual's income for the year to the extent that it is reasonable to conclude that the amount
 - (i) is required to be included in computing the individual's income for the year — or is derived, directly or indirectly, from an amount that is required to be included in computing the income of another taxpayer for the year — because of the application of section 246, and
 - (ii) would, if it were a payment made directly to the individual, be included in the individual's split income for the year, or
- (g) an amount included in computing the individual's income for the year in respect of a property if

- (i) the individual has not attained the age of 24 years before the year,
- (ii) the amount is — or can reasonably be considered to be derived, directly or indirectly, from — income from, or a taxable capital gain or profit from the disposition of, the property, and
- (iii) the property (or property for which it is a substitute)
 - (A) can reasonably be considered to be attributable, directly or indirectly, to an amount that is (for the year, or for any earlier taxation year of the individual that ends after 2017)
 - (I) included in computing the individual's split income for the year (determined as though paragraph (e) included in computing split income the full amount of the proceeds from a disposition of property to which that paragraph applies and paragraph (1.1)(e) were read without reference to its subparagraph (i)),
 - (II) deemed, by section 56 or any of sections 74.1 to 75.1 of this Act or section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, to be an amount in respect of another person, or
 - (III) a capital dividend
 - 1 received by the individual, and
 - 2 that would, if it were a taxable dividend received by the individual, be included in computing the individual's split income, or
 - (B) can reasonably be considered to be attributable, directly or indirectly, to an amount that is received by a trust, if
 - (I) the trust receives the amount in a taxation year (referred to in this clause as the **trust year**) of the trust that ends in the year or in any earlier taxation year of the individual that ends after 2017,
 - (II) the trust is not for the trust year
 - 1 a graduated rate estate of an individual,
 - 2 a mutual fund trust,
 - 3 a qualified disability trust in respect of which the individual is an electing beneficiary, or
 - 4 a trust that is deemed to be in existence by subsection 143(1),
 - (III) in respect of the trust year,
 - 1 the trust's taxable income is greater than nil,
 - 2 the trust receives a capital dividend, or
 - 3 an amount received, or receivable, by the trust is deemed, by section 56 or any of sections 74.1 to 75 of this Act or section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, to be an amount in respect of another person, and
 - (IV) in respect of the trust year, the trust would have split income for the trust year determined as though
 - 1 the trust were related to every person with which the individual is related,
 - 2 the trust were a specified individual who had not attained the age of 17 years,
 - 3 the definition *excluded amount* did not apply,

4 each capital dividend received by the trust in the trust year were a taxable dividend received by the trust in the trust year, and

5 the trust's split income for the year included each amount received, or receivable, by the trust in the year that is deemed, by section 56 or any of sections 74.1 to 75 of this Act or section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, to be an amount in respect of another person (*revenu fractionné*).

(5) Subsection 120.4(1) of the Act is amended by adding the following in alphabetical order:

beneficiary, under a trust, has the meaning assigned by subsection 108(1). (*bénéficiaire*)

business revenue, of a person for a taxation year from a business or the rental of property, means all amounts received in the year or receivable in the year (depending on the method regularly followed by the person in computing the person's income) by the person

- (a) in respect of the business or the rental of property; and
- (b) otherwise than as or on account of capital. (*revenu d'entreprise*)

connected individual, at any time in respect of a corporation, means an individual (other than a trust) resident in Canada, if

- (a) the corporation is at that time controlled, directly or indirectly, in any manner whatever by
 - (i) the individual, or
 - (ii) a related group (determined as though paragraph (1.1)(a) applied for the purpose of the definition *related group* in subsection 251(4)) of which the individual is a member;
- (b) it is the case that
 - (i) the individual owns at that time
 - (A) shares of the capital stock of the corporation, or
 - (B) property that derives, directly or indirectly, all or part of its fair market value from shares of that capital stock, and
 - (ii) the amount determined by the following formula is equal to or greater than 10% of the total fair market value at that time of all of the issued and outstanding shares of that capital stock:

$$A + B$$

where

A is the total fair market value at that time of property described in clause (i)(A), and

B is the portion of the total fair market value of property described in clause (i)(B) that is derived from shares of that capital stock;

(c) it is the case that

(i) the individual, or a person with whom the individual is related, owns at that time property that

(A) is shares of the capital stock of the corporation, or

(B) derives, directly or indirectly, all or part of its fair market value from shares of that capital stock,

(ii) a business of providing services is, in the corporation's taxation year that includes that time or in any of its previous taxation years, carried on by the corporation, and

(iii) it is reasonable to conclude, in respect of any of the taxation years in which the business is carried on,

(A) that

(I) those services are performed primarily by the individual,

(II) the corporation's business revenue from the business is primarily attributable to services performed by the individual, or

(III) the corporation's share of any income or loss of a partnership from the business, for a taxation year of the partnership that ends in any of those taxation years, is determined primarily by reference to services performed by the individual, or

(B) the individual

(I) performs all or part of those services, and

(II) is required under the laws of Canada or a province to be registered with, licensed by, permitted by or a member of an organization recognized under those laws in order to be authorized under the laws of Canada or a province to perform those services; or

(d) it is the case that

(i) the individual, or a person with whom the individual is related, owns at that time property that

(A) is shares of the capital stock of the corporation, or

(B) derives all or part of its fair market value, directly or indirectly, from shares of that capital stock, and

(ii) 10% or more of the total fair market value at that time of the corporation's property is attributable to property that is (or is a substitute for) property that

(A) was at or before that time transferred or loaned, directly or indirectly, to the corporation by the individual or another corporation — in respect of which the individual is, at any time after 2017 and before that time, a connected individual — in exchange for

(I) no consideration,

(II) consideration less than the fair market value of the property at the time of its transfer or loan, or

(III) consideration

1 that is indebtedness, a share of the capital stock of a corporation or a right to receive indebtedness or a share, and

2 any part of which (or property that is a substitute for which) remains at that time outstanding, or

(B) was acquired as a return on property described by this subparagraph. (*particulier rattaché*)

organization includes an association, body, college, institute, society and any similar arrangement recognized under the laws of Canada or a province. (*organisme*)

related source, for a taxation year in respect of an individual, means

(a) the provision of property or services by a person or partnership to, or in support of, a business carried on by

- (i) a person related to the individual at any time in the year, or
- (ii) a corporation
 - (A) of which a person related to the individual is at any time in the year a specified shareholder, or
 - (B) in respect of which a person related to the individual is at any time in the year a connected individual; and
- (b) a business of, or the rental of property by, a particular partnership or trust, if a person related to the individual at any time in the year
 - (i) is actively engaged on a regular basis in the activities of the particular partnership or trust related to earning income from a business or the rental of property, or
 - (ii) in the case of a particular partnership, has an interest — including directly or indirectly through one or more partnerships — in the particular partnership. (*source liée*)

split portion, of a particular amount in respect of an individual in respect of a taxation year, means the particular amount

- (a) if the particular amount would, if this subsection were read without reference to paragraph (b) of the definition *excluded amount*, be included in the amounts described in paragraph (g) of the definition *split income* in respect of the individual for the year;
- (b) to the extent that it is reasonable to consider that the following conditions are met in respect of the particular amount:
 - (i) the particular amount would be included in an amount, in respect of a particular property, described in the definition *split income* in respect of the individual for the year if this subsection were read without reference to
 - (A) paragraph (b) of the definition *excluded amount*, and
 - (B) paragraphs (e) and (g) of the definition *split income*,
 - (ii) the particular amount is, or can reasonably be considered to be derived directly or indirectly from one or more amounts (referred to in this paragraph as a **reference amount**) that are, paid or payable
 - (A) by a person or partnership (referred to in this paragraph as the **operating entity**) that — at either the time at which a reference amount is paid or becomes payable or at any time in the year — is
 - (I) if the particular amount would be included, as described in subparagraph (i), in the individual's split income for the year under paragraph (a), clause (c)(ii)(A) or (B) or paragraph (d) (determined without reference to clause (d)(ii)(A)) of the definition *split income*, a corporation in respect of which another individual related to the individual is a connected individual, or
 - (II) if the particular amount would be included, as described in subparagraph (i), in the individual's split income for the year under paragraph (b) or clause (c)(ii)(C) or paragraph (d) (determined without reference to clause (d)(ii)(B)) or (f) of the definition *split income*,
 - 1 a person related to the individual,
 - 2 a corporation of which, or in respect of which, another individual related to the individual is a specified shareholder or connected individual,
 - 3 a partnership or trust, if another individual related to the individual is actively engaged on a regular basis in the activities of the partnership or trust related to earning income from a business or the rental of property,

4 a partnership in which a person described by this clause has an interest, including directly or indirectly through one or more partnerships, or

5 a trust under which a person or partnership described by this clause is a beneficiary, and

(B) in respect of a business of, or the rental of property by, the operating entity (which business or rental of property is referred to in subparagraph (iii) as the **source business**), and

(iii) the particular amount exceeds what would have been paid or payable by an operating entity — as the particular amount or reference amount, as the case may be — dealing at arm's length with the individual, having regard to

(A) the functions relating to the source business performed by the individual to the extent that the individual — before the amounts were paid or became payable — is engaged in the activities of the business,

(B) the assets contributed, directly or indirectly, by the individual in support of the source business,

(C) the risks assumed by the individual in respect of the source business, and

(D) the total of all amounts that, before the end of the year, were paid or that became payable, directly or indirectly, by any person or partnership to or for the benefit of the individual in respect of the source business; and

(c) to the extent that it is reasonable to conclude that the particular amount

(i) would — if this subsection were read without reference to paragraph (b) of the definition *excluded amount* — be included, in respect of the disposition of a property in the amount described in paragraph (e) of the definition *split income* in respect of the individual for the year, and

(ii) would — if the particular amount (or, in the case of a taxable capital gain, twice the particular amount) were received in the year by the individual as an amount described in subparagraph (a)(i) or (b)(ii), clause (c)(ii)(C) or paragraph (d) of the definition *split income*, as the case may be, in respect of the property — be split income of the individual for the year. (*partie fractionnée*)

(6) Section 120.4 of the Act is amended by adding the following after subsection (1):

Additional rules — specified individual

(1.1) For the purpose of applying this section in respect of a specified individual in respect of a taxation year,

(a) in determining whether persons are related to each other,

(i) an individual is related to each other individual who is an aunt, uncle, niece or nephew of the individual, and

(ii) if a trust and a person are deemed by paragraph 251(1)(b) not to deal at arm's length with each other, the trust and the person are deemed to be related to each other;

(b) references to services performed by an individual in respect of a business of a person or partnership, include

(i) services performed by the person or partnership through the individual, and

(ii) services performed by the individual on behalf of, or through, the person or partnership;

(c) a partnership's taxation year is its fiscal period;

(d) except for the purposes of this paragraph, if it can reasonably be considered that one of the reasons that any person or partnership acquires or holds a property is to avoid additional tax payable under subsection (2) (determined without reference to this paragraph) for, or in respect of, the individual for the year or any earlier taxation year of the individual,

- (i) if the property is a security of a mutual fund corporation, the corporation is deemed not to be a mutual fund corporation,
 - (ii) if the property is a security of a mutual fund trust, the trust is deemed not to be a mutual fund trust,
 - (iii) if the property, or an identical property, is listed or traded on a stock exchange or other public market, the property is deemed not to be listed or traded on a stock exchange or other public market, and
 - (iv) paragraph (b) of the definition *excluded amount* in subsection (1) does not apply for the year in respect of the property; and
- (e) notwithstanding subsection (1), if the individual has attained the age of 17 years before the year,
- (i) if the individual's taxable income for the year — determined as though the individual deducted, under paragraph 20(1)(ww) in computing the individual's income for the year, the amount of the individual's split income for the year determined without regard to this paragraph — exceeds the dollar amount (as adjusted for the year in accordance with section 117.1) referred to in paragraph 117(2)(e), then the individual's split income for the year is deemed to be nil,
 - (ii) for the purpose of applying paragraph (b) of the definition *split portion* in subsection (1) in respect of a particular amount,
 - (A) the individual is deemed not to have performed functions in respect of a source business referred to in that paragraph if the source business is a business carried on by a person or partnership, in a taxation year, if
 - (I) the principal purpose of the business is to derive income from property (including interest, dividends, rents, royalties or any similar returns or substitutes for those returns), or
 - (II) 50% or more of the total of all amounts included in computing the income of the person or partnership for the year is from one or more of the following sources:
 - 1 property (including interest, dividends, rents, royalties or any similar returns or substitutes for those returns), or
 - 2 taxable capital gains from the disposition of property,
 - (B) the individual is deemed not to have contributed, directly or indirectly, assets in support of a source business referred to in that paragraph to the extent that the assets (or property for which the assets are a substitute) are
 - (I) derived, directly or indirectly, from an amount included in the individual's split income for any taxation year, or
 - (II) acquired in connection with a person related to the individual
 - 1 becoming obligated, either absolutely or contingently, to effect any undertaking including a guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan or other indebtedness incurred by the individual, or
 - 2 providing any other financial assistance to the individual, and
 - (C) if the particular amount referred to in that paragraph is in respect of a property owned by the individual and the individual acquired the property as a consequence of the death of another person, then, to the extent of the proportion of the relevant property of the other person acquired by the individual,
 - (I) the functions relating to the source business performed by the other person are deemed to be functions performed by the individual,

(II) the assets contributed, directly or indirectly, by the other person in support of the source business are deemed to be assets contributed by the individual in support of the business,

(III) the risks assumed by the other person in respect of the source business are deemed to be risks assumed by the individual in support of the business, and

(IV) the total of all amounts that, before the end of the year, were paid or that became payable, directly or indirectly, by any person or partnership to or for the benefit of the other person in respect of the source business are deemed to be amounts that were paid by a person to the individual in respect of the source business, and

(iii) if the individual has not attained the age of 24 years before the year, for the purpose of determining (under subparagraph (b)(iii) of the definition *split portion* in subsection (1)) what would have been paid or payable by an operating entity dealing at arm's length with the individual,

(A) the individual is to be considered to have performed functions in respect of a source business only to the extent the individual is actively engaged on a regular, continuous and substantial basis in the activities of the source business, and

(B) the total amount determined in respect of clauses (B) and (C) (of subparagraph (b)(iii) of the definition *split portion* in subsection (1)) shall not exceed the amount determined by the formula

$$A \times B$$

where

A is the prescribed rate, and

B is the total of all amounts each of which is the fair market value, at the time it was contributed by the individual in support of the source business, of an asset contributed by the individual in support of the source business.

(7) Subsections 120.4(4) and (5) of the Act are replaced by the following:

Taxable capital gain

(4) If a specified individual would have for a taxation year, if this Act were read without reference to this section, a taxable capital gain from a disposition of shares, of the capital stock of a corporation, that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, then the amount of that taxable capital gain is deemed not to be a taxable capital gain and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend, from the corporation, that is not an eligible dividend, except to the extent that

(a) the shares are

(i) of a class listed on a designated stock exchange, or

(ii) shares of a mutual fund corporation;

(b) the taxable capital gain is an excluded amount (determined without reference to paragraph (b) of the definition *excluded amount* in subsection (1)) in respect of the individual for the year; or

(c) if the individual has attained the age of 17 years before the year,

(i) the disposition is before 2018, or

(ii) the taxable capital gain is an excluded amount (determined without reference to paragraph (a) of the definition *excluded amount* in subsection (1)) in respect of the individual for the year.

Taxable capital gain of trust

(5) If a specified individual would be, if this Act were read without reference to this section, required under subsection 104(13) or 105(2) to include an amount in computing the specified individual's income for a taxation year, then to the extent that the amount can reasonably be considered to be attributable to a taxable capital gain from a disposition of shares, of the capital stock of a corporation, that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, subsection 104(13) and 105(2) do not apply in respect of the amount and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend, from the corporation, that is not an eligible dividend, except to the extent that

(a) the shares are

(i) of a class listed on a designated stock exchange, or

(ii) shares of a mutual fund corporation;

(b) the taxable capital gain is an excluded amount (determined without reference to paragraph (b) of the definition *excluded amount* in subsection (1)) in respect of the individual for the year; or

(c) if the individual has attained the age of 17 years before the year,

(i) the disposition is before 2018, or

(ii) the amount is an excluded amount (determined without reference to paragraph (a) of the definition *excluded amount* in subsection (1)) in respect of the individual for the year.

(8) Subsections (1) to (7) apply to the 2018 and subsequent taxation years.

2 (1) Subsection 160(1.2) of the Act is replaced by the following:

Joint and several, or solidary, liability — tax on split income

(1.2) If an amount is required to be added because of subsection 120.4(2) in computing a specified individual's tax payable under this Part for a taxation year and the specified individual has not attained the age of 24 years before the start of the year, the following rules apply:

(a) subject to paragraph (b), a particular individual is jointly and severally, or solidarily, liable with the specified individual for the amount if

(i) either

(A) it is the case that

(I) the specified individual has not attained the age of 17 years before the year, and

(II) the particular individual is a parent of the specified individual, or

(B) it is the case that

(I) the specified individual has attained the age of 17, but not the age of 24, years before the year, and

(II) the particular individual and the specified individual are related to each other (for the purpose of applying section 120.4 in respect of the specified individual for the year) during the year,

(ii) the specified individual's split income for the year includes a particular amount that is described in subclause (b)(iii)(B)(I) of the definition *specified individual* in subsection 120.4(1), and

(iii) the particular individual is an *other individual* referred to in paragraph (b) of the definition *specified individual* for the year in respect of the specified individual who meets the conditions in subparagraphs (i) to (iii) of paragraph (b) of the definition *specified individual*; and

(b) the particular individual's liability under paragraph (a) in respect of the specified individual for the year is to be determined as though the only amounts included in the specified individual's split income for the year are amounts described in subparagraph (a)(ii) in respect of the particular individual; and

(c) nothing in this subsection limits the liability of

(i) the specified individual under any other provision of this Act, or

(ii) the particular individual for the interest that the particular individual is liable to pay under this Act on an assessment in respect of the amount that the particular individual is liable to pay because of this subsection.

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

3 (1) The description of B of the formula in subsection 118(2) of the Act is replaced by the following:

B is 15% of the amount, if any, by which the individual's income for the year would exceed \$25,921 if, in computing that income, no amount were included in respect of a gain from a disposition of property to which section 79 applies and no amount were deductible under paragraph 20(1)(ww).

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

4 (1) Subsection 118(4) of the Act is amended by adding the following after paragraph (a.1):

(a.2) a reference to income for a year is to be read as a reference to that income determined as if, in computing that income, no amount were deductible under paragraph 20(1)(ww);

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

5 (1) Paragraph (b) of the definition *adjusted income* in subsection 122.5(1) of the Act is replaced by the following:

(b) deductible under paragraph 20(1)(ww) or 60(y) or (z). (*revenu rajusté*)

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

6 (1) Paragraph (b) of the definition *adjusted income* in section 122.6 of the Act is replaced by the following:

(b) deductible under paragraph 20(1)(ww) or 60(y) or (z); (*revenu modifié*)

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

7 (1) Paragraph (c) of the definition *adjusted net income* in subsection 122.7(1) of the Act is replaced by the following:

(c) in computing that income, no amount were deductible under paragraph 20(1)(ww) or 60(y) or (z). (*revenu net rajusté*)

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

8 (1) Paragraph (b) of the definition *adjusted income* in subsection 180.2(1) of the Act is replaced by the following:

(b) deductible under paragraph 20(1)(ww) or 60(w), (y) or (z); (*revenu modifié*)

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

9 (1) The portion of subsection 162(6) of the Act before paragraph (a) is replaced by the following:

Failure to provide identification number

(6) Every person or partnership who fails to provide on request their business number, their Social Insurance Number, their trust account number or their U.S. federal taxpayer identifying number to a person required under this Act or the Regulations to make an information return requiring the number is liable to a penalty of \$100 for each such failure, unless

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

10 (1) Paragraph 221(1)(d.1) of the Act is replaced by the following:

(d.1) requiring any person or partnership to provide any information — including their name, address, business number, Social Insurance Number or trust account number — to any class of persons required to make an information return containing that information;

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

11 (1) Subsections 237(1.1) to (3) of the Act are replaced by the following:

Production of number

(1.1) Every person and partnership shall provide their designated number

(a) in any return filed under this Act; or

(b) to another person or partnership at the request of the other person or partnership, if the other person or partnership is required to make an information return pursuant to this Act or the Regulations requiring the designated number.

Designated number

(1.2) For the purpose of subsection (1.1), **designated number**, of a person or partnership, means

(a) in the case of an individual (other than a trust), their Social Insurance Number;

(b) in the case of a trust, its trust account number; and

(c) in any other case, the person's or partnership's business number.

Number required in information returns

(2) For the purposes of this Act and the Regulations, a person or partnership required to make an information return requiring a business number, Social Insurance Number or trust account number of another person or partnership

(a) shall make a reasonable effort to obtain the number from the other person or partnership; and

(b) shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under this Act or a regulation, the number without the written consent of the other person or partnership.

Authority to communicate number

(3) A particular person may communicate, or allow to be communicated, a business number, Social Insurance Number or trust account number to another person related to the particular person where the other person is required, by this Act or the Regulations, to make an information return that requires the number.

(2) The portion of subsection 237(4) of the Act before paragraph (a) is replaced by the following:

Authority to communicate number

(4) An insurance corporation may communicate, or allow to be communicated, to another person the business number, Social Insurance Number or trust account number of a particular person or partnership if

(3) Paragraph 237(4)(c) of the Act is replaced by the following:

(c) the other person is required, by this Act or the Regulations, to make an information return, in respect of the disposition of the share or income from the share, that requires the number.

(4) Subsections (1) to (3) apply to the 2018 and subsequent taxation years.

12 (1) Paragraph 237.1(7)(a) of the Act is replaced by the following:

(a) the name, address and the business number, Social Insurance Number or trust account number of each person who so acquires or otherwise invests in the tax shelter in the year,

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

13 (1) Subsection 239(2.3) of the Act is replaced by the following:

Offence with respect to an identification number

(2.3) Every person to whom the business number of a taxpayer or partnership, to whom the Social Insurance Number of an individual or to whom the trust account number of a trust has been provided under this Act or the Regulations, and every officer, employee and agent of such a person, who without written consent of the individual, taxpayer, partnership or trust, as the case may be, knowingly uses, communicates or allows to be communicated the number (otherwise than as required or authorized by law, in the course of duties in connection with the administration or enforcement of this Act or for a purpose for which it was provided by the individual, taxpayer, partnership or trust, as the case may be) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or to both.

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

14 (1) The portion of the definition *business number* in subsection 248(1) of the Act before paragraph (a) is replaced by the following:

business number means the number (other than a Social Insurance Number or trust account number) used by the Minister to identify

(2) Subsection 248(1) of the Act is amended by adding the following in alphabetical order:

trust account number means the number (other than a business number)

(a) used by the Minister to identify a trust, and

(b) of which the Minister has notified the trust; (*numéro de compte de fiducie*)

(3) Subsections (1) and (2) apply to the 2018 and subsequent taxation years.

15 (1) Subparagraph 201(1)(b)(ii) of the *Income Tax Regulations* is replaced by the following:

(ii) in respect of

(A) money on loan to an association, corporation, institution, organization, partnership or trust,

(B) money on deposit with an association, corporation, institution, organization, partnership or trust, or

(C) property deposited or placed with an association, corporation, institution, organization, partnership or trust,

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

16 (1) Paragraph 229(1)(b) of the Regulations is replaced by the following:

(b) in respect of each member of the partnership who is entitled to a share referred to in paragraph (c) or (d) for the fiscal period, the member's

(i) name,

(ii) address, and

(iii) business number, Social Insurance Number or trust account number, as the case may be;

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

17 (1) Subparagraph 53(1)(e)(xii) of the Act is replaced by the following:

(xii) any amount required by subparagraph 110.6(18.1)(c)(i) or paragraph 110.6(23)(a) to be added at that time in computing the adjusted cost base to the taxpayer of the interest, and

(2) Subparagraph 53(2)(c)(xi) of the Act is replaced by the following:

(xi) any amount required by subparagraph 110.6(18.1)(c)(ii) or paragraph 110.6(23)(b) to be deducted at that time in computing the adjusted cost base to the taxpayer of the interest,

(3) Paragraph 53(2)(v) of the Act is replaced by the following:

(v) if the taxpayer elected under subsection 110.6(18) or (19) in respect of the property, any amount required by paragraph 110.6(18.1)(h) or subsection 110.6(22), as the case may be, to be deducted in computing the adjusted cost base to the taxpayer of the property at that time;

(4) Subsections (1) to (3) apply to the 2018 and subsequent taxation years.

18 (1) The portion of subsection 104(21.2) of the Act before paragraph (a) is replaced by the following:

Designated taxable capital gains — LCGE

(21.2) If a trust is an *eligible LCGE trust* (as defined in subsection 110.6(1)) for a taxation year (in this subsection referred to as the *designation year*) of the trust and an amount is — because of a designation under subsection (21) by the trust in respect of the trust's net taxable capital gains for the designation year — deemed to be a taxable capital gain of a beneficiary for a taxation year (in this subsection referred to as the *beneficiary's year*) of the beneficiary in which the designation year ends,

(2) Subparagraph 104(21.2)(b)(i) of the Act is replaced by the following:

(i) deemed to have disposed of the capital property referred to in clause (ii)(A), (B) or (C) if a taxable capital gain is determined under those clauses in respect of the beneficiary for the beneficiary's year, and

(3) The portion of subparagraph 104(21.2)(b)(ii) of the Act before clause (A) is replaced by the following:

(ii) deemed to have a taxable capital gain for the beneficiary's year

(4) The description of B in subparagraph 104(21.2)(b)(ii) of the Act is replaced by the following:

B is the amount, if any, by which the amount designated under subsection (21) for the designation year by the trust in respect of the beneficiary exceeds the amount designated under subsection (13.2) for the designation year by the trust in respect of the beneficiary,

(5) Subsections (1) to (4) apply to the 2018 and subsequent taxation years except that in respect of dispositions before 2018, the reference in subsection 104(21.2) of the Act, as amended by subsection (1), to “an eligible LCGE trust (as defined in subsection 110.6(1))” is to be read as a reference to “a personal trust or a trust described in subsection 7(2)”.

19 (1) Subsection 110.6(1) of the Act is amended by adding the following in alphabetical order:

eligible employee beneficiary, at any time in respect of a corporation and a trust, means an individual (other than a trust)

- (a)** whose interest as a beneficiary under the trust was acquired by the individual
 - (i)** because of the individual’s employment with
 - (A)** the corporation, or
 - (B)** another corporation with which the corporation does not deal at arm’s length, and
 - (ii)** in connection with an agreement referred to in subsection 7(1) in respect of shares of the capital stock of
 - (A)** the corporation, or
 - (B)** another corporation with which the corporation does not deal at arm’s length, and
- (b)** who is not at any time at or before that time
 - (i)** a specified employee of, or a *connected individual* (in this definition, within the meaning of subsection 120.4(1)) in respect of,
 - (A)** the corporation, or
 - (B)** any corporation with which the corporation does not deal at arm’s length, or
 - (ii)** an individual related (within the meaning of section 120.4) to
 - (A)** an individual described in subparagraph (i), or
 - (B)** a specified shareholder of a corporation referred to in clause (i)(A) or (B); (*employé bénéficiaire admissible*)

eligible LCGE trust, for a taxation year (referred to in this definition as the *trust year*) of the trust, means a trust, if

- (a)** the following conditions are met:
 - (i)** the trust is
 - (A)** throughout the trust year a personal trust, and
 - (B)** a trust for which a day is to be determined under paragraph 104(4)(a), (a.1) or (a.4) by reference to the death or later death of an individual (referred to in this paragraph as a **qualifying beneficiary**),
 - (ii)** the only dispositions by the trust in the trust year for proceeds of disposition determined under paragraph 107(2)(a) are from distributions to a qualifying beneficiary, and

(iii) no amount is designated under subsection 104(21) by the trust for the trust year in respect of any beneficiary, other than a qualifying beneficiary, or

(b) the following conditions are met:

(i) the trust is throughout the trust year a trust referred to in subsection 7(2) that holds shares of the capital stock of a corporation (referred to in this paragraph as the *issuer corporation*),

(ii) the only dispositions by the trust in the trust year for proceeds of disposition determined under paragraph 107(2)(a) are from distributions

(A) of shares of the capital stock of the issuer corporation, and

(B) to eligible employee beneficiaries in respect of the issuer corporation and the trust, and

(iii) no amount is designated under subsection 104(21) by the trust for the trust year in respect of any beneficiary who is not an eligible employee beneficiary in respect of the issuer corporation and the trust; (*fiducie admissible à l'ECGC*)

(2) Section 110.6 of the Act is amended by adding the following after subsection (11):

Ineligible capital gains — dispositions after 2017

(12) Notwithstanding subsections (2) to (2.2), the amount that may be deducted under this section in computing an individual's taxable income for a taxation year in respect of the individual's capital gain for the year from the disposition at any time (referred to in this subsection and subsection (12.1) as the *disposition time*) after 2017 of property (referred to in this subsection and subsection (12.1) as the *disposition property*) shall be reduced by the total of the following amounts:

(a) if the individual has not attained the age of 17 years before the year, the amount of the capital gain;

(b) if the capital gain is deemed to be a capital gain of the individual because of an allocation under subsection 144(4) by a trust governed by an employees profit sharing plan, the amount of the capital gain;

(c) if the relevant conditions for this paragraph are met, the amount by which the fair market value of the disposition property (or property for which it is a substitute) at the particular time exceeds its cost amount at that time to the person or partnership that held it at that time;

(d) if the individual has attained the age of 17 years before the year, twice the amount of the individual's taxable capital gain for the year from the disposition that would be included in computing the individual's split income for the year if paragraph 120.4(1.1)(e) were read without reference to its subparagraph (i) (except to the extent that the amount is included in the amount determined for paragraph (c) in respect of the capital gain);

(e) if the relevant conditions for this paragraph are met, the amount by which the fair market value of the disposition property (or property for which it is a substitute) at the acquisition time exceeds the cost referred to in subparagraph (12.1)(b)(i) (except to the extent that the amount is included in the amount determined for paragraph (c) or (d) in respect of the capital gain); and

(f) if the relevant conditions for this paragraph are met, the amount (except to the extent that the amount is included in the amount determined for any of paragraphs (b) to (d) in respect of the capital gain) equal to

(i) in the case of an acquisition referred to in clause (12.1)(c)(i)(A), the amount determined by the formula

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

where

A is the amount of the increase referred to in subparagraph (12.1)(c)(ii),

B is the fair market value of the distributed property at the particular time referred to in clause (12.1)(c)(i)(A), and

C is the cost, referred to in clause (12.1)(c)(i)(A), of the distributed property, and

(ii) in the case of a decision referred to in clause (12.1)(c)(i)(B), the amount of the increase referred to in subparagraph (12.1)(c)(ii).

Conditions for subsection (12)

(12.1) For the purposes of subsection (12),

(a) the relevant conditions for paragraph (12)(c) are

(i) the disposition property (or property for which it is a substitute) is property of any person or partnership at the beginning of the first day of the taxation year in which the individual attains the age of 18 years (referred to in this paragraph and paragraph (12)(c) as the **particular time**), and

(ii) the disposition property (or property for which it is a substitute) has not been disposed of, for proceeds of disposition equal to its fair market value, at any time at or after the particular time and before the disposition time;

(b) the relevant conditions for paragraph (12)(e) are

(i) the disposition property (or property for which it is a substitute) is, at any time (referred to in this paragraph and paragraph (12)(e) as the **acquisition time**) after 2017, acquired by any person or partnership (other than on a distribution from a trust that is an eligible LCGE trust for its taxation year that includes the acquisition time) at a cost determined under paragraph 107(2)(b), and

(ii) the disposition property (or property for which it is a substitute) has not been disposed of, for proceeds of disposition equal to its fair market value, at any time after the acquisition time and before the disposition time; and

(c) the relevant conditions for paragraph (12)(f) are

(i) a person or partnership either

(A) acquires a property (referred to in this paragraph and paragraph (12)(f) as the **distributed property**) other than the disposition property (or property for which it is a substitute), at any time (referred to in this paragraph and paragraph (12)(f) as the **particular time**) after 2017, at a cost determined under paragraph 107(2)(b), or

(B) holds an interest as a beneficiary under a trust that holds a property other than the disposition property (or property for which it is a substitute), if

(I) the person or partnership's rights as a beneficiary under the trust are affected by a person or partnership exercising, or failing to exercise, a discretionary power (referred to in this clause and paragraph (12)(f) as the **decision**) at any time (referred to in this paragraph as the **particular time**) after 2017,

(II) the decision is in respect of the distribution of income or capital of the trust in respect of any interest in the trust, and

(III) the fair market value of the person or partnership's interest as a beneficiary under the trust increases as a result of the decision,

(ii) it can reasonably be considered that the fair market value of the disposition property (or property for which it is a substitute) increases as a result of the acquisition referred to in clause (A) or the decision referred to in clause (B),

(iii) the disposition of the disposition property and the acquisition referred to in clause (A) or the decision referred to in clause (B), as the case may be, are part of the same series of transactions or events, and

(iv) the disposition property (or property for which it is a substitute) has not been disposed of, for proceeds of disposition equal to its fair market value, at any time after the particular time referred to in clause (A) or (B), as the case may be, and before the disposition time.

(3) Subsection 110.6(16) of the Act is replaced by the following:

Personal trust — QSBC shares

(16) For the purposes of the definition *qualified small business corporation share* in subsection (1) and of paragraph (14)(c), a personal trust is deemed to include at any time a trust that, for its taxation year that includes that time, meets the conditions in paragraph (b) of the definition *eligible LCGE trust* in subsection (1).

(4) Section 110.6 is amended by adding the following after subsection (17):

Definitions — 2018 election

(17.1) The definitions in this subsection apply in this subsection and subsections (18), (18.1) and (24) to (30).

disposition day, of a taxpayer, means the day that is

- (a) in 2018; and
- (b) identified as the disposition day in the election made under subsection (18) by the taxpayer. (*jour de disposition*)

disposition time means the beginning of a disposition day. (*moment de la disposition*)

election year, of a taxpayer, means the taxpayer's taxation year that includes the taxpayer's disposition day. (*année du choix*)

eligible property, of a taxpayer, means property — other than property in respect of which any of sections 74.2, 74.3, 75 and 75.1 apply — that

- (a) is identified, in the election made under subsection (18) by the taxpayer, as property in respect of which subsection (18.1) applies to the taxpayer;
- (b) is owned by the taxpayer continuously from the end of 2017 until the end of the taxpayer's disposition day;
- (c) is capital property of the taxpayer at the taxpayer's disposition time; and
- (d) would be, at the taxpayer's disposition time, either
 - (i) a qualified farm or fishing property of the taxpayer if
 - (A) the references in the definitions *interest in a family farm or fishing partnership* and *share of the capital stock of a family farm or fishing corporation* in subsection (1) to "any 24-month period ending before that time" were references to "any 24-month period ending before that time or the 12-month period that ends immediately before that time",
 - (B) the reference in subparagraph (1.3)(a)(i) to "24" were a reference to "12", and
 - (C) the reference in clause (1.3)(a)(ii)(B) to "24 months" were a reference to "24 months, or the 12-month period that ends immediately before that time," or
 - (ii) a qualified small business corporation share of the taxpayer if the references in the definition *qualified small business corporation share* in subsection (1) to "24" were references to "12". (*bien admissible*)

eligible taxpayer, for a taxation year, means

- (a) an individual (other than a trust); and

- (b)** a trust that is, throughout the year,
 - (i)** a personal trust, or
 - (ii)** a trust referred to in subsection 7(2). (*contributable admissible*)

Election – deemed disposition in 2018

(18) Subsection (18.1) applies to a taxpayer for the taxpayer’s election year in respect of an eligible property of the taxpayer, if

- (a)** the taxpayer is an eligible taxpayer for the taxpayer’s election year;
- (b)** the taxpayer elects to have subsection (18.1) apply; and
- (c)** the following conditions are met:
 - (i)** if the taxpayer is not a trust,
 - (A)** the application of subsection (18.1) in respect of the property would result in an increase, in the amount deductible under any of subsections (2) to (2.2), as the case may be, in computing the taxpayer’s taxable income for the taxpayer’s election year, and
 - (B)** if the taxpayer has not attained the age of 17 years before the taxpayer’s election year, the property is not a share of a capital stock of a corporation, and
 - (ii)** if the taxpayer is a trust,
 - (A)** it is reasonable to conclude that the amount of any taxable capital gain that would result, because of paragraph (18.1)(a), from the disposition of the property will be included in an amount deemed by subsection 104(21.2) to be a taxable capital gain of one or more individuals (other than trusts),
 - (B)** each individual referred to in clause (A) is
 - (I)** a beneficiary under the trust continuously from the end of 2017 until the end of the trust’s disposition day, and
 - (II)** resident in Canada throughout the individual’s taxation year in which the trust’s election year ends,
 - (C)** if an individual referred to in clause (A) has not attained the age of 17 years before the individual’s taxation year in which the trust’s election year ends, the property is not a share of a capital stock of a corporation, and
 - (D)** if the trust is governed by an employees profit sharing plan, the trust does not make, under subsection 144(4.2), an election in the trust’s election year in respect of the property.

Election – deemed disposition in 2018

(18.1) If this subsection applies to a taxpayer for the taxpayer’s election year in respect of an eligible property of the taxpayer, the following rules apply:

- (a)** subject to paragraphs (b) and (c), the eligible property is deemed to be
 - (i)** disposed of by the taxpayer at the disposition time for proceeds of disposition equal to the greater of
 - (A)** the amount designated (referred to in this subsection and subsection (28) as the *designated amount*) in respect of the property in the election, and
 - (B)** the adjusted cost base to the taxpayer of the property immediately before the disposition time, and

(ii) reacquired by the taxpayer immediately after the disposition time at a cost equal to the lesser of

(A) the designated amount, and

(B) the amount, if any, by which the fair market value of the property at the disposition time exceeds the amount determined by the formula

$$A - 1.1B$$

where

A is the designated amount in respect of the property, and

B is the fair market value of the property at the disposition time;

(b) if the eligible property is a share of the capital stock of a corporation,

(i) the disposition of the eligible property described in paragraph (a) does not apply for the purposes of sections 7 and 35, and

(ii) for the purposes of paragraph (a) and subsection (28), the fair market value of the property is deemed to be reduced by the amount, if any, that would be included under section 7 or 35 as a result of the disposition of the property in computing the income of the taxpayer (except to the extent that the amount is included in computing the adjusted cost base of the property under paragraph 53(1)(j));

(c) if the eligible property is an interest in a partnership, in computing the adjusted cost base to the taxpayer of the interest immediately before the disposition time,

(i) there shall be added the amount determined by the formula

$$(A - B) \times C/D + E$$

where

A is the total of all amounts each of which is the taxpayer's share of the partnership's income (other than a taxable capital gain from the disposition of property) from any source for a fiscal period that includes the disposition day,

B is the total of all amounts each of which is the taxpayer's share of the partnership's loss (other than an allowable capital loss from the disposition of a property) from any source for that fiscal period,

C is the number of days in the period that begins the first day of that fiscal period and ends on the day before the disposition day,

D is the number of days in that fiscal period, and

E is twice the amount that would be determined under paragraph 3(b) in computing the taxpayer's income for the taxation year in which that fiscal period ends if the taxpayer had no taxable capital gains or allowable capital losses other than those arising from dispositions of property by the partnership that occurred before the disposition day, and

(ii) there shall be deducted the amount that would be determined under subparagraph (i) if the formula in that subparagraph were read as

$$(B - A) \times C/D - E$$

(d) if the taxpayer is not a trust, subsection (12), and paragraph (e) of the definition *split income* in subsection 120.4(1), do not apply to the disposition of the eligible property described in paragraph (a);

(e) if the taxpayer is a trust,

(i) for the purposes of subsections (16) and 104(21.2), the trust is deemed to be, in respect of the disposition of the eligible property described in paragraph (a), an eligible LCGE trust for the trust's election year, and

(ii) subsection (12), and paragraph (e) of the definition *split income* in subsection 120.4(1), do not apply to an individual in respect of the amount of the trust's taxable capital gain from the disposition described in paragraph (a) that can reasonably be considered to be deemed by subsection 104(21.2) to be a taxable capital gain of the individual from the disposition of the property;

(f) for the purpose of determining whether the eligible property is a qualified small business corporation share of the taxpayer at the disposition time, the references in the definition *qualified small business corporation share* in subsection (1) to "24" are to be read as "12";

(g) for the purpose of determining whether the eligible property is qualified farm or fishing property of the taxpayer at the disposition time,

(i) the references in the definitions *interest in a family farm or fishing partnership* and *share of the capital stock of a family farm or fishing corporation* in subsection (1) to "any 24-month period ending before that time" are to be read as "any 24-month period ending before that time or the 12-month period that ends immediately before that time",

(ii) the reference in subparagraph (1.3)(a)(i) to "24" is to be read as "12", and

(iii) the reference in clause (1.3)(a)(ii)(B) to "24 months" is to be read as "24 months, or the 12-month period that ends immediately before that time,"; and

(h) in computing the adjusted cost base to the taxpayer of the eligible property at any time after the reacquisition referred to in subparagraph (a)(ii), there is to be deducted the amount determined by the formula

$$A - 1.1B - B$$

where

A is the designated amount in respect of the eligible property, and

B is the fair market value of the property at the disposition time.

(5) Subsections 110.6(24) to (30) of the Act are replaced by the following:

Filing of 2018 election

(24) An election made under subsection (18) by an eligible taxpayer in respect of an eligible property shall

(a) be made in prescribed form and prescribed manner;

(b) be filed on or before the balance-due day for the taxpayer's election year;

(c) identify the taxpayer's disposition day; and

(d) include

(i) a description of the property, and

(ii) if the taxpayer is a trust, the name, address and business number, Social Insurance Number or trust account number, as the case may be, of each beneficiary under the trust in respect of which an amount is

(A) designated by the trust under subsection 104(21) for its election year, or

(B) determined under paragraph 107(2)(b) to be the cost of a property distributed by the trust in its election year.

Revocation of election

(25) Subject to subsections (28) and (28.1), an eligible taxpayer may revoke an election made under subsection (18) by filing in prescribed form and prescribed manner a notice of the revocation with the Minister before 2021.

Late election

(26) Subject to subsection (28.1), for the purposes of this section (other than this subsection and subsection (29)), a taxpayer is deemed to have filed an election referred to in subsection (18) on the taxpayer's balance-due day for the year and this subsection applies to the election, if

- (a)** the election is filed with the Minister
 - (i)** after the taxpayer's balance-due day for the taxpayer's election year, and
 - (ii)** before 2021; and
- (b)** an estimate of the penalty in subsection (29) in respect of the election is paid by the taxpayer when the election is filed with the Minister.

Amended election

(27) Subject to subsections (28) and (28.1), this subsection applies to an election made under subsection (18) by a taxpayer, the election is deemed to be amended and the election, as amended, is deemed for the purpose of this section (other than this subsection and subsection (29)) to be filed on the taxpayer's balance-due day for the taxpayer's election year, if

- (a)** an amendment to the election is filed in prescribed form and prescribed manner with the Minister before 2021; and
- (b)** an estimate of the penalty in subsection (29), if any, in respect of the amended election is paid by the elector when the amended election is filed with the Minister.

Excess designated amount in election

(28) An election made under subsection (18) by a taxpayer in respect of an eligible property cannot be amended or revoked if the designated amount in respect of the property exceeds 11/10 of

- (a)** in the case of property that is an interest in a partnership, the greater of
 - (i)** \$1, and
 - (ii)** the fair market value of the property at the taxpayer's disposition time; and
- (b)** in any other case, the fair market value of the property at the taxpayer's disposition time.

Trusts – late, amended, revoked election

(28.1) Subsections (25) to (27) do not apply to an election made by an eligible taxpayer that is a trust in respect of an election made under subsection (18) by the trust, unless the election, amendment or revocation, as the case may be,

- (a)** is filed with a prescribed form amending the trust's return of income under this Part for its election year; and
- (b)** includes an election for subsection (25), (26) or (27) to apply made jointly with each beneficiary for which
 - (i)** an amount would be – because of a designation under subsection 104(21) by the trust in respect of the trust's net taxable capital gains (determined without regard to the election, amendment or revocation, as the case may be) for its election year – deemed to be a taxable capital gain of the beneficiary for a taxation year in which the trust's election year ends, or
 - (ii)** an amount would be – because of a designation under subsection 104(21) by the trust in respect of the trust's net taxable capital gains (determined as if the election, amendment or revocation, as the case may be, applies) for its election year – deemed to be a taxable capital gain of the beneficiary for a taxation year in which the trust's election year ends.

Trusts – late, amended, revoked election

(28.2) Notwithstanding subsection 104(24), an amount is deemed for the purposes of subsection 104(6) and (13) to have become payable to a beneficiary in a trust's election year and not at any other time if

- (a)** any of subsections (25), (26) or (27) apply to an election made under subsection (18) by the trust;
- (b)** it is reasonable to conclude that the amount is the taxable capital gain that resulted, because of paragraph (18.1)(a), from the disposition of a property; and
- (c)** the amount became payable (determined as though subsection 104(24) applied for purposes of this subsection) to the beneficiary after the election year and before the filing of the election, amendment or revocation to which subsection (25), (26) or (27), as the case may be, applies.

Penalty – election

(29) If subsection (26) or (27) applies to an election made under subsection (18) by a taxpayer, the taxpayer is liable to a penalty in the amount determined by the formula

$$(A \times B)/300$$

where

- A** is the number of months each of which is a month all or part of which is during the period that begins on the day after the balance-due day for the taxpayer's election year and that ends on the day the election or amended election, as the case may be, is filed with the Minister; and
- B** is the total of all amounts each of which is the taxpayer's taxable capital gain from the disposition described in paragraph (18.1)(a) of an eligible property of the taxpayer.

Unpaid balance of penalty

(30) If any of subsections (26) to (28) apply in respect of an election,

- (a)** the Minister shall, with all due dispatch, examine the election, assess the penalty payable in respect of the election and send a notice of assessment to the taxpayer that made the election; and
- (b)** the taxpayer shall pay to the Receiver General the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

2018 – disposition by minor

(30.1) If an individual (other than a trust), or a personal trust under which the individual is a beneficiary, disposes at a time in 2018 of a share of the capital stock of a corporation, the individual has not attained the age of 17 years before 2018 and the share was owned continuously, from the end of 2017 until that time, by the individual or the trust, the following rules apply:

- (a)** subsection (12), and paragraph (e) of the definition *split income* in subsection 120.4(1), do not apply,
 - (i)** if the individual disposed of the share, to the disposition, and
 - (ii)** if the trust disposed of the share, to the individual in respect of the amount of the trust's taxable capital gain from the disposition that can reasonably be considered to be deemed by subsection 104(21.2) to be a taxable capital gain of the individual from the disposition of the property;
- (b)** if the trust disposed of the share, for the purposes of subsections (16) and 104(21.2), the trust is deemed to be, in respect of the disposition, an eligible LCGE trust for the trust's taxation year that includes the time of the disposition;
- (c)** for the purpose of determining whether the share is a qualified small business corporation share of the individual or the trust, as the case may be, at the time of the disposition, the references in the definition *qualified small business corporation share* in subsection (1) to "24" are to be read as "12"; and

(d) for the purpose of determining whether the share is qualified farm or fishing property of the individual or trust, as the case may be, at the time of the disposition

(i) the references in the definitions *interest in a family farm or fishing partnership* and *share of the capital stock of a family farm or fishing corporation* in subsection (1) to “any 24–month period ending before that time” are to be read as “any 24–month period ending before that time or the 12–month period that ends immediately before that time”,

(ii) the reference in subparagraph (1.3)(a)(i) to “24” is to be read as “12”, and

(iii) the reference in clause (1.3)(a)(ii)(B) to “24 months” is to be read as “24 months, or the 12–month period that ends immediately before that time.”

(6) Subsections (1) to (5) apply to the 2018 and subsequent taxation years.

20 (1) Subsection 144(4) of the Act is replaced by the following:

Allocated capital gains and losses

(4) Each capital gain and capital loss of a trust governed by an employees profit sharing plan from the disposition of any property shall, to the extent that it is allocated by the trust to an employee who is a beneficiary under the plan, be deemed to be a capital gain or capital loss, as the case may be, of the employee from the disposition of that property for the taxation year of the employee in which the allocation was made.

(2) Subsection (1) applies to the 2018 and subsequent taxation years except that in applying subsection 144(4) of the Act, as enacted by subsection (1), in respect of dispositions that occur before 2018, the reference to “the allocation was made” is to be read as “the allocation was made, and for the purposes of section 110.6, the property is deemed to have been disposed of by the employee on the day on which it was disposed of by the trust.”

Converting Income into Capital Gains

21 (1) The portion of paragraph 84.1(2)(a.1) of the Act before subparagraph (i) is replaced by the following:

(a.1) where a share disposed of by a taxpayer was acquired by the taxpayer after 1971, was a share substituted for such a share or was a share substituted for a share owned by the taxpayer at the end of 1971, the adjusted cost base to the taxpayer of the share at any time shall be deemed to be the amount, if any, by which its adjusted cost base to the taxpayer, otherwise determined, exceeds the total of

(2) Subparagraph 84.1(2)(a.1)(ii) of the Act is replaced by the following:

(ii) the total of all amounts each of which is an amount determined after 1984 under subparagraph 40(1)(a)(i) in respect of a previous disposition of the share or a share for which the share was substituted by the taxpayer or an individual with whom the taxpayer did not deal at arm’s length;

(3) Subsections (1) and (2) apply in respect of dispositions that occur on or after Announcement Date and, for greater certainty, the reference to “a previous disposition” in subparagraph 84.1(2)(a.1)(ii) of the Act, as amended by subsection (2), includes dispositions that occur prior to Announcement Date.

22 (1) The Act is amended by adding the following after section 246:

Non-arm’s length dividend stripping – individuals

Deemed taxable dividend

246.1 (1) If this subsection applies to a portion of an amount received or receivable, directly or indirectly, by an individual in a taxation year, the portion of the amount is deemed to be included in computing the individual’s income for the year as a taxable dividend received by the individual in the year.

Application of subsection (1)

(2) Subsection (1) applies to a portion of an amount received or receivable, directly or indirectly, by an individual in a taxation year, as part of a transaction or event or a series of transactions or events, if

- (a)** the individual is resident in Canada in the taxation year;
- (b)** the amount was received or receivable, directly or indirectly in any manner whatever, from a person with whom the individual was not dealing at arm's length;
- (c)** as part of the transaction, event or series, there is
 - (i)** a disposition of property, or
 - (ii)** an increase or a reduction of paid-up capital in the capital stock of shares of a corporation; and
- (d)** it can reasonably be considered that one of the purposes of the transaction, event or series was to effect a significant reduction or disappearance of assets of a private corporation (including assets that the private corporation acquires or holds an interest in, directly or indirectly) at any time in a manner such that any part of tax otherwise payable under this Act by the individual with respect to the portion, and in consequence of any distribution of property of a corporation, is avoided.

Reduction – capital dividend account

(3) If subsection (1) applies to a portion of an amount that, but for this section, would have been received or receivable by an individual in a taxation year as a capital dividend payable by a private corporation at a particular time, in computing the corporation's capital dividend account immediately before the particular time (referred to in this subsection as the **earlier time**) and at any time after the earlier time, the capital dividend account is reduced by the amount determined by the formula

$$A - B$$

where

- A** is the total of all amounts each of which is the amount of a capital gain of the corporation before the earlier time and as part of a series of transactions or events referred to in subsection (2); and
- B** is the total of all amounts, each of which is the portion of the capital gain referred to in the description of A that is the corporation's taxable capital gain.

(2) Subsection (1) applies in respect of amounts that are received or become receivable on or after Announcement Date.

