

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE *INCOME TAX ACT*
AND OTHER TAX LEGISLATION

That it is expedient to amend the *Income Tax Act* (“the Act”) and other tax legislation as follows:

Tax-Free Savings Account

1. The definition “TFSA dollar limit” in subsection 207.01(1) of the *Income Tax Act* is replaced by the following:

“TFSA dollar limit” for a calendar year means,

- (a) for 2009, \$5,000;
- (b) for each year after 2009 and before 2015, the amount (rounded to the nearest multiple of \$500, or if that amount is equidistant from two such consecutive multiples, to the higher multiple) that is equal to \$5,000 adjusted for each year after 2009 in the manner set out in section 117.1; and
- (c) for each year after 2014, \$10,000.

Home Accessibility Tax Credit

2. (1) Subsection 108(1.1) of the Act is replaced by the following:

(1.1) For the purpose of the definition “testamentary trust” in subsection (1), a contribution to a trust does not include a qualifying expenditure (within the meaning of sections 118.04 or 118.041) of a beneficiary under the trust.

(2) Subsection (1) applies to the 2016 and subsequent taxation years.

3. (1) The Act is amended by adding the following after section 118.04:

118.041. (1) The following definitions apply in this section.

“eligible dwelling” of an individual, at any time in a taxation year, means a housing unit (including the land adjacent to the housing unit and the immediately contiguous land, but not including the portion of that land that exceeds the greater of ½ hectare and the portion of that land that the individual establishes is necessary for the use and enjoyment of the housing unit as a residence) located in Canada if

- (a) the individual (or a trust under which the individual is a beneficiary) owns — whether jointly with another person or otherwise — at that time, the housing unit or a share of the capital stock of a co-operative housing corporation acquired for the sole purpose of acquiring the right to inhabit the housing unit owned by the corporation; and
- (b) the housing unit is ordinarily inhabited, or is reasonably expected to be ordinarily inhabited, at any time in the taxation year

- (i) by the individual, if the individual is a qualifying individual, or
- (ii) by the individual and a qualifying individual, if
 - (A) the individual is an eligible individual in respect of the qualifying individual, and
 - (B) the qualifying individual does not, throughout the taxation year, own — whether jointly with another person or otherwise — and ordinarily inhabit another housing unit in Canada.

“eligible individual”, in respect of a qualifying individual for a taxation year, means

- (a) an individual who is the qualifying individual’s spouse or common-law partner in the year;
- (b) except if paragraph (c) of this definition applies, an individual who is entitled to deduct an amount under subsection 118.3(2) for the year in respect of the qualifying individual or would be if no amount was claimed for the year by the qualifying individual under subsection 118.3(1) or by the qualifying individual’s spouse or common-law partner under section 118.8; or
- (c) in the case of a qualifying individual who has attained the age of 65 before the end of the year, an individual who
 - (i) claimed for the year a deduction under subsection 118(1) in respect of the qualifying individual because of
 - (A) paragraph (b) of the description of B in that subsection, or
 - (B) paragraph (c.1) or (d) of that description where the qualifying individual is a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, nephew or niece of the individual, or of the individual’s spouse or common-law partner, or
 - (ii) could have claimed for the year a deduction referred to in subparagraph (i) in respect of the qualifying individual if
 - (A) the qualifying individual had no income for the year,
 - (B) in the case of a deduction referred to in clause (i)(A), the individual were not married and not in a common-law partnership, and
 - (C) in the case of a deduction under subsection 118(1) because of paragraph (d) of the description of B in that subsection in respect of a qualifying individual who is a dependant (within the meaning of subsection 118(6)) of the individual, the qualifying individual were dependent on the individual because of mental or physical infirmity.

“individual” does not include a trust.

“qualifying expenditure” of an individual means an outlay or expense that is made or incurred, during a taxation year, that is directly attributable to a qualifying renovation — of an eligible dwelling of a qualifying individual or an eligible individual in respect of a qualifying individual — and that is the cost of goods acquired or services received during the

year and includes an outlay or expense for permits required for, or for the rental of equipment used in the course of, the qualifying renovation, but does not include an outlay or expense

- (a) to acquire a property that can be used independently of the qualifying renovation;
- (b) that is the cost of annual, recurring or routine repair or maintenance;
- (c) to acquire a household appliance;
- (d) to acquire an electronic home-entertainment device;
- (e) that is the cost of housekeeping, security monitoring, gardening, outdoor maintenance or similar services;
- (f) for financing costs in respect of the qualifying renovation;
- (g) made or incurred primarily for the purpose of increasing or maintaining the value of the eligible dwelling;
- (h) made or incurred for the purpose of gaining or producing income from a business or property;
- (i) in respect of goods or services provided by a person not dealing at arm's length with the qualifying individual or the eligible individual, unless the person is registered for the purposes of Part IX of the *Excise Tax Act*; or
- (j) to the extent that the outlay or expense can reasonably be considered to have been reimbursed, otherwise than as assistance from the federal or a provincial government including a grant, subsidy, forgivable loan or a deduction from tax.

“qualifying individual”, in respect of a taxation year, means an individual

- (a) who has attained the age of 65 years before the end of the taxation year; or
- (b) in respect of whom an amount is deductible, or would be deductible if this Act were read without reference to paragraph 118.3(1)(c), under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year.

“qualifying renovation” means a renovation or alteration of an eligible dwelling of a qualifying individual or an eligible individual in respect of a qualifying individual that

- (a) is of an enduring nature and integral to the eligible dwelling; and
- (b) is undertaken to
 - (i) enable the qualifying individual to gain access to, or to be mobile or functional within, the eligible dwelling, or
 - (ii) reduce the risk of harm to the qualifying individual within the eligible dwelling or in gaining access to the dwelling.

(2) For the purpose of this section,

- (a) a qualifying expenditure in respect of an eligible dwelling of a particular individual — who is a qualifying individual or an eligible individual in respect of a qualifying individual — includes an outlay or expense made or incurred by a co-operative housing cor-

poration, a condominium corporation (or, for civil law, a syndicate of co-owners) or a similar entity (in this paragraph referred to as the “corporation”), in respect of a property that is owned, administered or managed by that corporation and that includes the eligible dwelling, to the extent of the share of that outlay or expense that is reasonably attributable to the eligible dwelling, if

(i) the outlay or expense would be a qualifying expenditure of the corporation if the corporation were an individual and the property were an eligible dwelling of that individual, and

(ii) the corporation has notified, in writing, either the particular individual or, if the particular individual is an eligible individual in respect of a qualifying individual, the qualifying individual, of the share of the outlay or expense that is attributable to the eligible dwelling; and

(b) a qualifying expenditure in respect of an eligible dwelling of a particular individual — who is a qualifying individual or an eligible individual in respect of a qualifying individual — includes an outlay or expense made or incurred by a trust, in respect of a property owned by the trust that includes the eligible dwelling, to the extent of the share of that outlay or expense that is reasonably attributable to the eligible dwelling, having regard to the amount of the outlays or expenses made or incurred in respect of the eligible dwelling (including, for this purpose, common areas relevant to more than one eligible dwelling), if

(i) the outlay or expense would be a qualifying expenditure of the trust if the trust were an individual and the property were an eligible dwelling of that individual, and

(ii) the trust has notified, in writing, either the particular individual or, if the particular individual is an eligible individual in respect of a qualifying individual, the qualifying individual, of the share of the outlay or expense that is attributable to the eligible dwelling.

(3) For the purpose of computing the tax payable under this Part by a qualifying individual or an eligible individual, in respect of an eligible dwelling for a taxation year, there may be deducted the amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the taxation year; and

B is the lesser of

(a) \$10,000, and

(b) the total of all amounts, each of which is a qualifying expenditure of the individual in respect of the eligible dwelling for the taxation year.

(4) Despite paragraph 248(28)(b), an amount may be included in determining both an amount under subsection (3) and under section 118.2 if those amounts otherwise qualify to be included for the purposes of those provisions.

(5) For the purpose of this section,

(a) a maximum of \$10,000 of qualifying expenditures for a taxation year in respect of a qualifying individual can be claimed under subsection (3) by the qualifying individual and all eligible individuals in respect of the qualifying individual;

(b) if there is more one qualifying individual in respect of an eligible dwelling, a maximum of \$10,000 of qualifying expenditures for a taxation year in respect of the eligible dwelling can be claimed under subsection (3) by the qualifying individuals and all eligible individuals in respect of the qualifying individuals; and

(c) if more than one individual is entitled to a deduction under subsection (3) for a taxation year in respect of the same qualifying individual or the same eligible dwelling and the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

(6) For the purpose subsection (5), if an individual becomes bankrupt in a particular calendar year, despite subsection 128(2), any reference to the taxation year of the individual is deemed to be a reference to the particular calendar year.

(7) For the purpose of this section,

(a) if an individual dies during a calendar year and would have attained 65 years of age if the individual were alive at the end of the year, the individual is deemed to have attained 65 years of age at the beginning of the year;

(b) if an individual becomes a qualifying individual during a calendar year and becomes bankrupt in that year, the individual is deemed to be a qualifying individual at the beginning of that year; and

(c) if an individual becomes a qualifying individual during a calendar year and an eligible individual in respect of the qualifying individual becomes bankrupt in that year, the individual is deemed to be a qualifying individual at the beginning of the year.

(2) Subsection (1) applies to the 2016 and subsequent taxation years.

4. (1) Section 118.92 of the Act is replaced by the following:

118.92 In computing an individual's tax payable under this Part, the following provisions shall be applied in the following order: subsections 118(1) and (2), section 118.7, subsections 118(3) and (10) and sections 118.01, 118.02, 118.031, 118.04, 118.041, 118.05, 118.06, 118.07, 118.3, 118.61, 118.5, 118.6, 118.9, 118.8, 118.2, 118.1, 118.62, 119.1 and 121.

(2) Subsection (1) applies to the 2016 and subsequent taxation years.

Minimum Withdrawal Factors for Registered Retirement Income Funds

5. The Act is amended by adding the following after section 60.021:

60.022 (1) In determining the amount that may be deducted because of paragraph 60(*l*) in computing a taxpayer's income for the 2015 taxation year, clause 60(*l*)(v)(B.2) is to be read as follows:

(B.2) the total of all amounts each of which is

- (I) the taxpayer's eligible amount (within the meaning of subsection 146.3(6.11)) for the year in respect of a registered retirement income fund,
- (II) the taxpayer's eligible RRIF withdrawal amount (within the meaning of subsection 60.022(2)) for the year in respect of a RRIF,
- (III) the taxpayer's eligible variable benefit withdrawal amount (within the meaning of subsection 60.022(3)) for the year in respect of an account of the taxpayer under a money purchase provision of a registered pension plan, or
- (IV) the taxpayer's eligible PRPP withdrawal amount (within the meaning of subsection 60.022(4)) for the year in respect of an account of the taxpayer under a PRPP,

(2) A taxpayer's eligible RRIF withdrawal amount for the taxation year in respect of a RRIF under which the taxpayer is the annuitant at the beginning of the taxation year is the amount determined by the formula

$$A - B$$

where

A is the lesser of

- (a) the total of all amounts included, because of subsection 146.3(5), in computing the taxpayer's income for the taxation year in respect of amounts received out of or under the fund (other than an amount paid by direct transfer from the fund to another fund or to a registered retirement savings plan), and
- (b) the amount that would be the minimum amount under the fund for the 2015 taxation year if it were determined using the prescribed factors under subsections 7308(3) or (4), as the case may be, of the *Income Tax Regulations* as they read on December 31, 2014; and

B is the minimum amount under the fund for the taxation year.

(3) A taxpayer's eligible variable benefit withdrawal amount for a taxation year in respect of an account of the taxpayer under a money purchase provision of a registered pension plan is the amount determined by the formula

$$A - B - C$$

where

A is the lesser of

- (a) the total of all amounts each of which is the amount of a retirement benefit (other than a retirement benefit permissible under any of paragraphs 8506(1)(a) to (e) of the

Income Tax Regulations) paid from the plan in the taxation year in respect of the account and included, because of paragraph 56(1)(a), in computing the taxpayer's income for the taxation year, and

(b) the amount that would be the minimum amount for the account for the 2015 taxation year if it were determined using the factor designated under subsection 7308(4) of the *Income Tax Regulations* as they read on December 31, 2014;

B is the minimum amount for the account for the taxation year; and

C is the total of all contributions made by the taxpayer under the provision and designated for the purposes of subsection 8506(12) of the *Income Tax Regulations*.

(4) A taxpayer's eligible PRPP withdrawal amount for a taxation year in respect of an account of the taxpayer under a PRPP is the amount determined by the formula

$$A - B$$

where

A is the lesser of

(a) the total of all amounts each of which is the amount of a distribution made from the account in the taxation year and included, because of subsection 147.5(13), in computing the taxpayer's income for the taxation year, and

(b) the amount that would be the minimum amount for the account for the 2015 taxation year if it were determined using the factor designated under subsection 7308(4) of the *Income Tax Regulations* as they read on December 31, 2014, and

B is the minimum amount for the account for the taxation year.

(5) For the purposes of this section,

(a) "money purchase provision" has the same meaning as in subsection 147.1(1);

(b) "retirement benefits" has the meaning as in subsection 8500(1) of the *Income Tax Regulations*;

(c) the minimum amount for an account of a taxpayer under a money purchase provision of a registered pension plan is the amount determined under subsection 8506(5) of the *Income Tax Regulations*; and

(d) the minimum amount for an account of a taxpayer under a PRPP is the amount that would be the minimum amount for the calendar year under subsection 8506(5) of the *Income Tax Regulations* if the taxpayer's account were an account under a money purchase provision of a registered pension plan.

6. Section 146.3 of the Act is amended by adding the following after subsection (1.2):

(1.3) For the purposes of subsections (5.1) and 153(1) and the definition "periodic pension payment" in section 5 of the *Income Tax Conventions Interpretation Act*, the minimum amount under a retirement income fund for 2015 is the amount that would be the minimum amount under the fund for the year if it were determined using the prescribed factors under

subsections 7308(3) or (4), as the case may be, of the *Income Tax Regulations* as they read on December 31, 2014.

7. Paragraph 147.5(3)(b) of the Act is replaced by the following:

(b) a contribution is made to the plan in respect of a member after the calendar year in which the member attains 71 years of age, other than an amount

- (i) described in subparagraph (a)(iii), or
- (ii) if subsection 60.022(1) applies, described in any of subclauses 60(l)(v)(B.2)(II) to (IV);

8. (1) The table to subsection 7308(3) of the *Income Tax Regulations* is replaced by the following:

X	Factor
Under 72	$1/(90 - X)$
72	0.0540
73	0.0553
74	0.0567
75	0.0582
76	0.0598
77	0.0617
78	0.0636
79	0.0658
80	0.0682
81	0.0708
82	0.0738
83	0.0771
84	0.0808
85	0.0851
86	0.0899
87	0.0955
88	0.1021
89	0.1099
90	0.1192
91	0.1306
92	0.1449
93	0.1634
94	0.1879
95 or older	0.2000

(2) The table to subsection 7308(4) of the *Income Tax Regulations* is replaced by the following:

Y	Factor
under 71	$1/(90 - Y)$
71	0.0528
72	0.0540
73	0.0553
74	0.0567
75	0.0582
76	0.0598
77	0.0617
78	0.0636
79	0.0658
80	0.0682
81	0.0708
82	0.0738
83	0.0771
84	0.0808
85	0.0851
86	0.0899
87	0.0955
88	0.1021
89	0.1099
90	0.1192
91	0.1306
92	0.1449
93	0.1634
94	0.1879
95 or older	0.2000

(3) Subsections (1) and (2) apply to the 2015 and subsequent taxation years.

9. Section 8506 of the *Income Tax Regulations* is amended by adding the following after subsection (10):

Recontribution for 2015

(11) If a contribution made by a member of a registered pension plan and credited to the member's account under a money purchase provision of the plan complies with the conditions in subsection (12), the contribution

- (a) is deemed to have been made in accordance with the plan as registered;
- (b) is to be disregarded for the purposes of paragraph (2)(c.1); and
- (c) is deemed to be an excluded contribution for the purposes of paragraph 8301(4)(a).

Conditions Referred to in Subsection (11)

(12) The conditions referred to in subsection (11) are as follows:

- (a) the contribution is made after December 31, 2014 and before March 1, 2016;
- (b) the contribution is designated for the purposes of this subsection in a manner acceptable to the Minister; and
- (c) the amount of the contribution does not exceed the amount determined by the formula

$$A - B - C$$

where

A is the lesser of

- (i) the total of all amounts each of which is the amount of a retirement benefit (other than a retirement benefit permissible under any of paragraphs (1)(a) to (e)) paid from the plan in 2015 in respect of the account and included, because of paragraph 56(1)(a) of the Act, in computing the taxpayer's income for the taxation year, and
- (ii) the amount that would be the minimum amount for the account for 2015 if it were determined using the factor designated under subsection 7308(4) as it read on December 31, 2014,

B is the minimum amount for the account for 2015, and

C is the total of all other contributions made by the member under the money purchase provision at or before the time of the contribution and designated for the purposes of this subsection.

Lifetime Capital Gains Exemption for Qualified Farm or Fishing Property

10. (1) Section 104 of the Act is amended by adding the following after subsection (21.2):

(21.21) If clause (21.2)(b)(ii)(A) applies to deem, for the purposes of section 110.6, the beneficiary under a trust to have a taxable capital gain (referred to in this subsection as the "QFFP taxable capital gain") from a disposition of capital property that is qualified farm or fishing property of the beneficiary, for the beneficiary's taxation year that ends on or after April 21, 2015, and in which the designation year of the trust ends, for the purposes of subsection 110.6(2.2), the beneficiary is, if the trust complies with the requirements of subsection (21.22), deemed to have a taxable capital gain from the disposition of qualified farm or fishing property of the beneficiary on or after April 21, 2015 equal to the amount determined by the formula

$$A \times B/C$$

where

A is the amount of the QFFP taxable capital gain;

B is, if the designation year of the trust ends on or after April 21, 2015, the amount that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in

paragraph 3(b) were qualified farm or fishing properties of the trust that were disposed of by the trust on or after April 21, 2015; and

- C is, if the designation year of the trust ends on or after April 21, 2015, the amount that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in paragraph 3(b) were qualified farm or fishing properties.

(21.22) A trust shall determine and designate, in its return of income under this Part for a designation year of the trust, the amount that is determined under subsection (21.21) to be the beneficiary's taxable capital gain from the disposition on or after April 21, 2015 of qualified farm or fishing property of the beneficiary.

(2) Subsection (1) applies in respect of taxation years that end after April 20, 2015.

11. (1) Section 110.6 of the Act is amended by adding the following after subsection (2.1):

(2.2) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of qualified farm or fishing property in the year or a preceding taxation year and after April 20, 2015, there may be deducted an amount claimed by the individual that does not exceed the least of

- (a) the amount, if any, by which \$500,000 exceeds the total of
 - (i) \$400,000 adjusted for each year after 2014 in the manner set out by section 117.1, and
 - (ii) the total of all amounts each of which is an amount deducted under this subsection in computing the individual's taxable income for a preceding taxation year that ended after 2014,
- (b) the amount, if any, by which the individual's cumulative gains limit at the end of the year exceeds the total of all amounts each of which is an amount deducted by the individual under subsection (2) or (2.1) in computing the individual's taxable income for the year,
- (c) the amount, if any, by which the individual's annual gains limit for the year exceeds the total of all amounts each of which is an amount deducted by the individual under subsection (2) or (2.1) in computing the individual's taxable income for the year, and
- (d) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm or fishing properties disposed of by the individual after April 20, 2015.

(2.3) Subsection (2.2) does not apply in computing the taxable income for a taxation year of an individual unless the individual has claimed the maximum amount that could be claimed under subsections (2) and (2.1) for the taxation year.

(2) Subsection 110.6(4) of the Act is replaced by the following:

(4) Notwithstanding subsections (2) and (2.1), the total amount that may be deducted under this section in computing an individual's income for a taxation year shall not exceed the amount determined by the formula in paragraph (2)(a) and the amount that may be deducted under subsection (2.2) in respect of the individual for the year.

(3) The portion of subsection 110.6(5) of the Act before paragraph (a) is replaced by the following:

(5) For the purposes of subsections (2) to (2.2), an individual is deemed to have been resident in Canada throughout a particular taxation year if

(4) The portion of subsection 110.6(6) of the Act before paragraph (a) is replaced by the following:

(6) Notwithstanding subsections (2) to (2.2), no amount may be deducted under this section in respect of a capital gain of an individual for a particular taxation year in computing the individual's taxable income for the particular taxation year or any subsequent year, if

(5) The portion of subsection 110.6(7) of the Act before paragraph (a) is replaced by the following:

(7) Notwithstanding subsections (2) to (2.2), no amount may be deducted under this section in computing an individual's taxable income for a taxation year in respect of a capital gain of the individual for the taxation year if the capital gain is from a disposition of property which disposition is part of a series of transactions or events

(6) Subsection 110.6(8) of the Act is replaced by the following:

(8) Notwithstanding subsections (2) to (2.2), if an individual has a capital gain for a taxation year from the disposition of a property and it can reasonably be concluded, having regard to all the circumstances, that a significant part of the capital gain is attributable to the fact that dividends were not paid on a share (other than a prescribed share) or that dividends paid on such a share in the taxation year or in any preceding taxation year were less than 90% of the average annual rate of return on that share for that year, no amount in respect of that capital gain shall be deducted under this section in computing the individual's taxable income for the year.

(7) Subsections (1) to (6) apply to taxation years that end after April 20, 2015.

Registered Disability Savings Plan — Legal Representation

12. Clause (a)(ii)(B.1) of the definition “disability savings plan” in subsection 146.4(1) of the Act is replaced by the following:

(B.1) if the arrangement is entered into before 2019, 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,

Repeated Failure to Report Income Penalty

13. (1) Subsection 163(1) of the Act is replaced by the following:

163. (1) Every person is liable to a penalty who

(a) fails to report an amount, equal to or greater than \$500, required to be included in computing the person's income in a return filed under section 150 for a taxation year (in this subsection and subsection (1.1) referred to as the "unreported amount");

(b) had failed to report an amount, equal to or greater than \$500, required to be included in computing the person's income in any return filed under section 150 for any of the three preceding taxation years; and

(c) is not liable to a penalty under subsection (2) in respect of the unreported amount.

(1.1) The amount of the penalty to which the person is liable under subsection (1) is equal to the lesser of

(a) 10% of the unreported amount, and

(b) the amount determined by the formula

$$0.5(A - B)$$

where

A is the total of the amounts that would be determined under paragraphs (2)(a) to (g) if subsection (2) applied in respect of the unreported amount, and

B is any amount deducted or withheld under subsection 153(1) that may reasonably be considered to be in respect of the unreported amount.

(2) Subsection (1) applies to taxation years that begin after 2014.

Alternative Arguments in Support of Assessments

14. The Act is modified in accordance with the proposals relating to Alternative Arguments in Support of Assessments described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Information Sharing for the Collection of Non-Tax Debts

15. Paragraph 241(4)(d) of the Act is amended by striking out "or" at the end of subparagraph (xvi), by adding "or" at the end of subparagraph (xvii) and by adding the following after subparagraph (xvii):

(xviii) to an official of the Canada Revenue Agency solely for the purpose of the collection of amounts owing to Her Majesty in right of Canada or of a province under the *Government Employees Compensation Act*, the *Canada Labour Code*, the *Merchant*

Seamen Compensation Act, the Canada Student Loans Act, the Canada Student Financial Assistance Act, the Postal Services Continuation Act, 1997, the Wage Earner Protection Program Act, the Apprentice Loans Act or a law of a province governing the granting of financial assistance to students at the post-secondary school level;

Transfer of Education Credits — Effect on the Family Tax Cut

16. Section 119.1 of the Act, as proposed by the *Support for Families Act (Bill C-57)*, is modified in accordance with the proposals relating to the Transfer of Education Credits — Effect on the Family Tax Cut described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Donations Involving Private Corporation Shares or Real Estate

17. The Act is modified to give effect to the proposals relating to Donations Involving Private Corporation Shares or Real Estate described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Investments in Limited Partnerships by Registered Charities

18. (1) Section 149.1 of the Act is amended by adding the following after subsection (10):

(11) For the purposes of this section and sections 149.2 and 188.1, each member of a partnership at any time is deemed at that time to own the portion of each property of the partnership equal to the proportion that the fair market value of the member's interest in the partnership at that time is of the fair market value of all interests in the partnership at that time.

(2) Subsection (1) is deemed to have come into force on April 21, 2015.

19. (1) Section 253.1 of the Act is renumbered as subsection 253.1(1) and is amended by adding the following:

(2) For the purposes of section 149.1 and subsections 188.1(1) and (2), if a registered charity or a registered Canadian amateur athletic association holds an interest as a member of a partnership, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business of the partnership if

(a) by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited;

(b) the member deals at arm's length with each general partner of the partnership; and

(c) the member, or the member together with persons and partnerships with which it does not deal at arm's length, holds interests in the partnership that have a fair market value of

not more than 20% of the fair market value of the interests of all members in the partnership.

(2) Subsection (1) applies in respect of investments in limited partnerships that are made or acquired after April 20, 2015.

Gifts to Foreign Charitable Foundations

20. (1) Subparagraph (a)(v) of the definition “qualified donee” in subsection 149.1(1) of the Act is replaced by the following:

(v) a foreign charity that has applied to the Minister for registration under subsection (26),

(2) The portion of subsection 149.1(26) of the Act before subparagraph (b)(i) is replaced by the following:

(26) For the purposes of subparagraph (a)(v) of the definition “qualified donee” in subsection (1), the Minister may register, in consultation with the Minister of Finance, a foreign charity for a 24-month period that includes the time at which Her Majesty in right of Canada has made a gift to the foreign charity, if

- (a) the foreign charity is not resident in Canada; and
- (b) the Minister is satisfied that the foreign charity is

(3) Subsections (1) and (2) apply to applications made on or after the day on which the enacting legislation receives royal assent.

Small Business Tax Rate

21. (1) Subparagraph 82(1)(b)(i) of the Act is replaced by the following:

(i) the product of the amount determined under paragraph (a) in respect of the taxpayer for the taxation year multiplied by

- (A) for the 2016 and 2017 taxation years, 17%,
- (B) for the 2018 taxation year, 16%, and
- (C) for taxation years after 2018, 15%, and

(2) Subsection (1) applies to the 2016 and subsequent taxation years.

22. (1) Paragraph 121(a) of the Act is replaced by the following:

(a) the product of the amount, if any, that is required by subparagraph 82(1)(b)(i) to be included in computing the individual’s income for the year multiplied by

- (i) for the 2016 taxation year, 21/29,
- (ii) for the 2017 and 2018 taxation years, 20/29, and

(iii) for taxation years after 2018, 9/13; and

(2) Subsection (1) applies to the 2016 and subsequent taxation years.

23. (1) Paragraphs 125(1.1)(a) and (b) of the Act are replaced by the following:

(a) that proportion of 17% that the number of days in the taxation year that are in 2015 is of the number of days in the taxation year,

(b) that proportion of 17.5% that the number of days in the taxation year that are in 2016 is of the number of days in the taxation year,

(c) that proportion of 18% that the number of days in the taxation year that are in 2017 is of the number of days in the taxation year,

(d) that proportion of 18.5% that the number of days in the taxation year that are in 2018 is of the number of days in the taxation year, and

(e) that proportion of 19% that the number of days in the taxation year that are after 2018 is of the number of days in the taxation year.

(2) Subsection (1) applies to the 2016 and subsequent taxation years.

24. (1) Paragraph 137(4.3)(a) of the Act is replaced by the following:

(a) the preferred-rate amount of a corporation at the end of a taxation year is determined by the formula

$$A + B/C$$

where

A is its preferred-rate amount at the end of its immediately preceding taxation year,

B is the amount deductible under section 125 from the tax for the taxation year otherwise payable by it under this Part, and

C is its small business deduction rate for the taxation year within the meaning of subsection 125(1.1);

(2) Subsection (1) applies for the 2016 and subsequent taxation years.

Manufacturing and Processing Machinery and Equipment: Accelerated Capital Cost Allowance

25. Paragraph 1100(1)(a) of the *Income Tax Regulations* is amended by striking out “and” at the end of subparagraph (xxxvii), by adding “and” at the end of subparagraph (xxxviii) and by adding the following after subparagraph (xxxviii):

(xxxix) of Class 53, 50 per cent,

26. Paragraph 4600(2)(k) of the *Income Tax Regulations* is replaced by the following:

(k) a property included in Class 21, 24, 27, 29, 34, 39, 40, 43, 45, 46, 50, 52 or 53 in Schedule II;

27. Paragraph (a) of Class 43 of Schedule II to the *Income Tax Regulations* is replaced by the following:

(a) is not included in Class 29 or 53, but that would otherwise be included in Class 29 if that Class were read without reference to its subparagraphs (b)(iii) and (v) and paragraph (c); or

28. Schedule II to the *Income Tax Regulations* is amended by adding the following after Class 52:

CLASS 53

Property acquired after 2015 and before 2026 that is not included in Class 29, but that would otherwise be included in that Class if

(a) subparagraph (a)(ii) of that Class were read without reference to “in Canadian field processing carried on by the lessee or”; and

(b) that Class were read without reference to its subparagraphs (b)(iv) to (vi) and paragraph (c).

Agricultural Cooperatives: Deferral of Tax on Patronage Dividends Paid in Shares

29. Paragraph (a) of the definition “tax deferred cooperative share” in subsection 135.1(1) of the Act is replaced by the following:

(a) issued, after 2005 and before 2021, by an agricultural cooperative corporation to a person or partnership that is at the time the share is issued an eligible member of the agricultural cooperative corporation, pursuant to an allocation in proportion to patronage;

Quarterly Remitter Category for New Employers

30. (1) Subsection 108(1) of the *Income Tax Regulations* is replaced by the following:

108. (1) Subject to subsections (1.1) to (1.13), amounts deducted or withheld in a month under subsection 153(1) of the Act shall be remitted to the Receiver General on or before the 15th day of the following month.

(2) Section 108 of the *Income Tax Regulations* is amended by adding the following after subsection (1.12):

(1.13) If an employer is a new employer throughout a particular month in a particular calendar year, all amounts deducted or withheld from payments described in the definition “remuneration” in subsection 100(1) that are made by the employer in the month may be remitted to the Receiver General

(a) in respect of such payments made in January, February and March of the particular calendar year, on or before the 15th day of April of the particular calendar year;

(b) in respect of such payments made in April, May and June of the particular calendar year, on or before the 15th day of July of the particular calendar year;

(c) in respect of such payments made in July, August and September of the particular calendar year, on or before the 15th day of October of the particular calendar year; and

(d) in respect of such payments made in October, November and December of the particular calendar year, on or before the 15th day of January of the year following the particular calendar year.

(3) Section 108 of the *Income Tax Regulations* is amended by adding the following after subsection (1.2):

(1.21) For the purposes of subsection (1.4), the monthly withholding amount, in respect of an employer for a month, is the total of all amounts each of which is an amount required to be remitted with respect to the month by the employer or, if the employer is a corporation, by each corporation associated with the corporation, under

(a) subsection 153(1) of the Act and a similar provision of a law of a province which imposes a tax upon the income of individuals, if the province has entered into an agreement with the Minister of Finance for the collection of taxes payable to the province, in respect of payments described in the definition “remuneration” in subsection 100(1);

(b) subsection 21(1) of the *Canada Pension Plan*; or

(c) subsection 82(1) of the *Employment Insurance Act*.

(4) Section 108 of the *Income Tax Regulations* is amended by adding the following after subsection (1.3):

(1.4) For the purposes of subsection (1.13) an employer

(a) becomes a new employer at the beginning of any month after 2015 in which the employer first becomes an employer; and

(b) ceases to be a new employer at a specified time in a particular year, if in a particular month the employer does not meet any of the following conditions:

(i) the monthly withholding amount in respect of the employer for the particular month is less than \$1,000,

(ii) throughout the 12-month period before that time, the employer has remitted, on or before the day on or before which the amounts were required to be remitted, all amounts each of which was required to be remitted under subsection 153(1) of the Act, subsection 21(1) of the *Canada Pension Plan*, subsection 82(1) of the *Employment Insurance Act* or Part IX of the *Excise Tax Act*, and

(iii) throughout the 12-month period before that time, the employer has filed all returns each of which was required to be filed under the Act or Part IX of the *Excise Tax Act* on or before the day on or before which those returns were required to be filed under those Acts.

(1.41) For the purposes of subsection (1.4), the specified time is the end of

- (a) March of the particular year, if the particular month is January, February or March of that year;
- (b) June of the particular year, if the particular month is April, May or June of that year;
- (c) September of the particular year, if the particular month is July, August or September of that year; and
- (d) December of the particular year, if the particular month is October, November or December of that year.

(5) Subsections (1) to (4) apply in respect of amounts deducted or withheld after 2015.

Synthetic Equity Arrangements

31. (1) Section 112 of the Act is amended by replacing subsection (2.3) with the following:

(2.3) No deduction may be made under subsection (1) or (2) or 138(6) in computing the taxable income of a particular corporation in respect of a dividend received on a share of the capital stock of a corporation as part of a dividend rental arrangement of the particular corporation or a partnership of which the particular corporation is directly or indirectly a member.

(2.31) Subsection (2.3) does not apply to a dividend received on a share as part of a dividend rental arrangement of a person or partnership (referred to in this subsection and subsection (2.32) as the “taxpayer”) throughout a particular period during which the synthetic equity arrangement referred to in paragraph (c) of the definition “dividend rental arrangement” is in effect if

- (a) the dividend rental arrangement is a dividend rental arrangement because of paragraph (c) of the definition “dividend rental arrangement” in subsection 248(1); and
- (b) the taxpayer establishes that, throughout the particular period, no tax-indifferent investor or group of tax-indifferent investors, each member of which is affiliated with every other member, has all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share because of the synthetic equity arrangement or a specified synthetic equity arrangement.

(2.32) A taxpayer is considered to have satisfied the condition described in paragraph (2.31)(b) in respect of a share if

- (a) where the taxpayer or the non-arm’s length person referred to in paragraph (a) of the definition “synthetic equity arrangement” in subsection 248(1) (either of which is referred to in this subsection as the “synthetic equity arrangement party”) obtains accurate representations in writing from its counterparty, or from each member of a group comprised of all its counterparties each of which is affiliated with every other member (each member

of this group of counterparties is referred to in this subsection as an “affiliated counterparty”), with respect to the synthetic equity arrangement, as appropriate, that

- (i) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31), and
- (ii) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31);

(b) where the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, with respect to the synthetic equity arrangement that the counterparty, or each affiliated counterparty, as appropriate

- (i) is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31),
- (ii) has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit, in respect of the share, in one of the following circumstances:

(A) in the case of a counterparty, that counterparty

(I) has entered into a specified synthetic equity arrangement with its own counterparty (a counterparty of a counterparty or of an affiliated counterparty is referred to in this subsection as a “specified counterparty”), or

(II) has entered into a specified synthetic equity arrangement with each member of a group of its own counterparties every member of which is affiliated with each other member (each member of this group of counterparties is referred to in this subsection as an “affiliated specified counterparty”), or

(B) in the case of an affiliated counterparty, each affiliated counterparty

(I) has entered into a specified synthetic equity arrangement with the same specified counterparty, or

(II) has entered into a specified synthetic equity arrangement with an affiliated specified counterparty that is part of the same group of affiliated specified counterparties, and

(iii) has obtained accurate representations in writing from each of its specified counterparties, or from each member of the group of affiliated specified counterparties referred to in subclause (A)(II) or (B)(II), as appropriate, that

- (A) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31), and

- (B) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31);
- (c) where the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, with respect to the synthetic equity arrangement that the counterparty, or each affiliated counterparty, as appropriate
- (i) is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31),
 - (ii) has entered into specified synthetic equity arrangements
 - (A) that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share,
 - (B) where no single specified counterparty or group of affiliated specified counterparties has been provided with all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share, and
 - (C) where each specified counterparty or affiliated specified counterparty deals at arm's length with each other (other than in the case of affiliated specified counterparties, within the same group, of affiliated specified counterparties), and
 - (iii) has obtained accurate representations in writing from each of its specified counterparties, or from each of its affiliated specified counterparties, that
 - (A) it is a person resident in Canada and it does not reasonably expect to cease to be resident in Canada during the particular period referred to in subsection (2.31), and
 - (B) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31); or
- (d) where a person or partnership is a party to a synthetic equity arrangement chain in respect of the share, the person or partnership
- (i) has obtained all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share under the synthetic equity arrangement chain,
 - (ii) has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share, and
 - (iii) obtains accurate representations in writing of the type described in paragraph (a), (b) or (c), as if it were a synthetic equity arrangement party, from each of its counterparties where each such counterparty deals at arm's length with that person or partnership.

(2.33) If, at a time during a particular period referred to in subsection (2.31), a counterparty, specified counterparty, affiliated counterparty or affiliated specified counterparty rea-

sonably expects to become a tax-indifferent investor or to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of a share, the particular period for which it has provided a representation in respect of the share is deemed to end at that time.

(2.34) For greater certainty, each reference in subsection (2.32) to a “counterparty”, a “specified counterparty”, an “affiliated counterparty” or an “affiliated specified counterparty” shall be read as referring only to a person or partnership that obtains all or any portion of the risk of loss or opportunity for gain or profit in respect of the share referred to in that subsection.

(2) Section 112 of the Act is amended by adding the following after subsection (9):

(10) For the purposes of subsections (3), (3.1), (4), (4.1) and (5.2), if a synthetic equity arrangement is in respect of a number of shares that are identical properties (referred to in this subsection as “identical shares”) that is less than the total number of such identical shares owned by the taxpayer at that time and in respect of which there is no other synthetic equity arrangement, the synthetic equity arrangement is deemed to be in respect of those identical shares in the order in which the taxpayer acquired them.

(3) Subsection (1) applies to dividends that are paid or become payable after October 2015.

(4) Subsection (2) comes into force on November 1, 2015.

32. (1) The definition “dividend rental arrangement” in subsection 248(1) of the Act is amended by striking out “and” at the end of paragraph (a) and by adding the following after paragraph (b):

(c) includes any synthetic equity arrangement, in respect of a share owned by the person, and

(d) includes one or more agreements or arrangements (other than agreements or arrangements described in paragraph (c)) entered into by the person, or the non-arm’s length person referred to in paragraph (a) of the definition “synthetic equity arrangement”, if

(i) the agreements or arrangements have the effect, or would have the effect if entered into by the person instead of the non-arm’s length person, of eliminating all or substantially all of the person’s risk of loss and opportunity for gain or profit in respect of a share owned by the person,

(ii) as part of a series of transactions that includes these agreements or arrangements, a tax-indifferent investor, or a group of tax-indifferent investors each member of which is affiliated with every other member, obtains all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share, and

(iii) it is reasonable to conclude that one of the purposes of the series of transactions is to obtain the result described in subparagraph (ii);

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

“recognized derivatives exchange” means a person or partnership recognized or registered under the securities laws of a province to carry on the business of providing the facilities necessary for the trading of options, swaps, futures contracts or other financial contracts or instruments whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest;

“specified mutual fund trust”, at any time, means a mutual fund trust other than a mutual fund trust for which it can reasonably be considered, having regard to all the circumstances, including the terms and conditions of the units of the trust, that the total of all amounts each of which is the fair market value, at that time, of a unit issued by the trust and held by a person exempt from tax under section 149 is all or substantially all of the total of all amounts each of which is the fair market value, at that time, of a unit issued by the trust;

“specified synthetic equity arrangement”, in respect of a share owned by a person or partnership, means one or more agreements or other arrangements that

- (a) have the effect of providing to a person or partnership all or any portion of the risk of loss or opportunity for gain or profit in respect of the share, and
- (b) can reasonably be considered to have been entered into in connection with a synthetic equity arrangement, in respect of the share, or in connection with another specified synthetic equity arrangement, in respect of the share;

“synthetic equity arrangement”, in respect of a share owned by a person or a partnership (referred to in this definition as the “particular person”),

- (a) means one or more agreements or other arrangements that
 - (i) are entered into by the particular person, or by a person or partnership that does not deal at arm’s length with the particular person (referred to in this definition as a “non-arm’s length person”), with one or more persons or partnerships (referred to in this definition as a “counterparty” and in subsection 112(2.32) as a “counterparty” or an “affiliated counterparty” as appropriate),
 - (ii) have the effect, or would have the effect, if entered into by the particular person instead of the non-arm’s length person, of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share to a counterparty or a group of counterparties each member of which is affiliated with every other member and, for greater certainty, opportunity for gain or profit includes rights to, benefits from and distributions on a share, and
 - (iii) if entered into by a non-arm’s length person, can reasonably be considered to have been entered into with the knowledge, or where there ought to have been the knowledge, that the effect described in subparagraph (ii) would result, and
- (b) does not include
 - (i) an agreement that is traded on a recognized derivatives exchange unless it can reasonably be considered that, at the time the agreement is executed, the particular person or the non-arm’s length person, as the case may be, knows or ought to know the identity of its counterparty,

(ii) one or more agreements or other arrangements that, but for this subparagraph, would be a synthetic equity arrangement, in respect of a share owned by the particular person (in this subparagraph referred to as the “synthetic short position”), if

(A) the particular person has entered into one or more other agreements or other arrangements (other than, for greater certainty, an agreement under which the share is acquired or a securities lending arrangement) that have the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share to the particular person (in this subparagraph referred to as the “synthetic long position”),

(B) the synthetic short position has the effect of offsetting all amounts included or deducted in computing the income of the particular person with respect to the synthetic long position, and

(C) the synthetic short position was entered into for the purpose of obtaining the effect referred to in clause (B), and

(iii) an agreement whose payment or settlement obligations are derived from, or referenced to, an index

(A) that reflects the value of 75 or more types of identical shares,

(B) that references only long positions with respect to its underlying components,

(C) that is created and maintained by persons or partnerships that deal at arm’s length with the particular person and the value of which is published and publicly available, and

(D) where the total fair market value of the shares of the capital stock of Canadian corporations reflected in the index is not, at any time during the term of the agreement or arrangement, greater than 5% of the total fair market value of all shares reflected in the index;

“synthetic equity arrangement chain”, in respect of a share owned by a person or partnership, means a synthetic equity arrangement — or a synthetic equity arrangement in combination with one or more specified synthetic equity arrangements — where

(a) no party to the synthetic equity arrangement or a specified synthetic equity arrangement, if any, is a non-resident person or a partnership other than a Canadian partnership, and

(b) each other party to these agreements or arrangements is affiliated with the person or partnership;

“tax-indifferent investor” means

(a) a person exempt from tax under section 149,

(b) a non-resident person, other than a person to which amounts paid or credited under a synthetic equity arrangement or a specified synthetic equity arrangement may reasonably

be attributed to the business carried on by the person in Canada through a permanent establishment (as defined by regulation) in Canada,

(c) a trust resident in Canada (other than a specified mutual fund trust) if any of the interests as a beneficiary under the trust is not a fixed interest (as defined in subsection 251.2(1)) in the trust (in this definition referred to as a “discretionary trust”),

(d) a partnership if more than 10% of the fair market value of all interests in the partnership can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraphs (a) to (c), and

(e) a trust resident in Canada (other than a specified mutual fund trust or a discretionary trust) if more than 10% of the fair market value of all interests as beneficiaries under the trust can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraphs (a) or (c);

(3) Section 248 of the Act is amended by adding the following after subsection (41):

(42) For the purposes of subsections 112(2.31), (2.32) and (10), the definition “synthetic equity arrangement” in subsection (1) and paragraph (c) of the definition “dividend rental arrangement” in subsection (1), a synthetic equity arrangement that reflects the fair market value of more than one type of identical shares (as defined in subsection 112(8.1)) is considered to be a separate arrangement with respect to each type of identical shares the value of which the arrangement reflects.

(4) Subsection (1) applies to dividends that are paid or become payable after October 2015.

(5) Subsections (2) and (3) come into force on November 1, 2015.

Tax Avoidance of Corporate Capital Gains (Section 55)

33. (1) Paragraph 52(3)(a) of the Act is replaced by the following:

(a) where the stock dividend is a dividend,

(i) in the case of a shareholder that is an individual, the amount of the stock dividend, and

(ii) in any other case, the total of all amounts each of which is

(A) the lesser of the amount of the stock dividend and its fair market value, and

(B) the amount determined by the formula

$$A + B - C$$

where

A is the amount of the reduction under paragraph 55(2.3)(b) in respect of that stock dividend,

B is the amount of the deemed gain under paragraph 55(2)(b) in respect of that stock dividend, and

C is the amount included in the total because of clause (A);

(2) Subsection (1) applies to stock dividends received after April 20, 2015.

34. (1) Subparagraph 53(1)(b)(ii) of the Act is replaced by the following:

(ii) the portion of the total determined under subparagraph (i) that relates to dividends in respect of which the taxpayer was permitted a deduction under subsection 112(1) in computing the taxpayer's taxable income, except any portion of the dividend that, if paid as a separate dividend, would not be subject to subsection 55(2) because the amount of the separate dividend would not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received;

(2) Subsection (1) applies to dividends received after April 20, 2015.

35. (1) Subsection 55(2) of the Act is replaced by the following:

(2) If this subsection applies to a taxable dividend received by a dividend recipient, notwithstanding any other provision of this Act, the amount of the dividend (other than the portion of it, if any, subject to tax under Part IV that is not refunded as a consequence of the payment of a dividend by a corporation where the payment is part of the series referred to in subsection (2.1))

(a) is deemed not to be a dividend received by the dividend recipient; and

(b) is deemed to be a gain of the dividend recipient, for the year in which the dividend was received, from the disposition of a capital property.

(2.1) Subsection (2) applies to a taxable dividend received by a corporation resident in Canada (in subsections (2) to (2.2) and (2.4) referred to as the “dividend recipient”) as part of a transaction or event or a series of transactions or events if

(a) the dividend recipient is entitled to a deduction in respect of the dividend under subsection 112(1) or (2) or 138(6);

(b) it is the case that

(i) one of the purposes of the payment or receipt of the dividend (or, in the case of a dividend under subsection 84(3), one of the results of which) is to effect a significant reduction in the portion of the capital gain that, but for the dividend, would have been realized on a disposition at fair market value of any share of capital stock immediately before the dividend, or

(ii) the dividend is received on a share that is held as capital property by the dividend recipient and one of the purposes of the payment or receipt of the dividend (other than a dividend under subsection 84(3)) is to effect

- (A) a significant reduction in the fair market value of any share, or
 - (B) a significant increase in the cost of property, such that the amount that is the total of the cost amounts of all properties of the dividend recipient immediately after the dividend is significantly greater than the amount that is the total of the cost amounts of all properties of the dividend recipient immediately before the dividend;
- and

(c) the amount of the dividend exceeds the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received.

(2.2) For the purpose of applying subsections (2) to (2.4), the amount of a stock dividend and the dividend recipient's entitlement to a deduction under subsection 112(1) or (2) or 138(6) in respect of the amount of that dividend is to be determined as if paragraph (b) of the definition "amount" in subsection 248(1) read as follows:

“(b) in the case of a stock dividend paid by a corporation, the greater of

- (i) the amount by which the paid-up capital of the corporation that paid the dividend is increased by reason of the payment of the dividend, and
- (ii) the fair market value of the share or shares issued as a stock dividend at the time of payment.”.

(2.3) If this subsection applies

(a) the amount of the stock dividend is deemed for the purpose of subsection (2) to be a separate dividend to the extent of the portion of the amount that does not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received; and

(b) the amount of the separate dividend referred to in paragraph (a) is deemed to reduce the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received.

(2.4) Subsection (2.3) applies in respect of a stock dividend if

- (a) a dividend recipient holds a share upon which it receives the stock dividend;
- (b) the fair market value of the stock dividend referred to in paragraph (a) exceeds the amount by which the paid-up capital of the corporation that paid the stock dividend is increased because of the dividend; and

(c) subsection (2) would apply to the dividend if subsection (2.1) were read without reference to its paragraph (c).

(2.5) For the purpose of applying clause (2.1)(b)(ii)(A), whether a dividend causes a significant reduction in the fair market value of any share is to be determined as if the fair market value of the share, immediately before the dividend, was increased by an amount equal to the fair market value of the dividend received on the share.

(2) The portion of paragraph 55(3)(a) of the Act that is before subparagraph (i) is replaced by the following:

(a) in the case of a dividend under subsection 84(3), if, as part of a transaction or event or a series of transactions or events as a part of which the dividend is received, there was not at any particular time

(3) Subsections (1) and (2) apply to dividends received after April 20, 2015.

36. The Act is further amended by making other consequential amendments as a result of sections 33 to 35.

Withholding for Non-Resident Employers

37. (1) Paragraph 153(1)(a) of the Act is replaced by the following:

(a) salary, wages or other remuneration, other than

(i) amounts described in subsection 212(5.1), and

(ii) amounts paid at any time by an employer to an employee if, at that time, the employer is a qualifying non-resident employer and the employee is a qualifying non-resident employee,

(2) Subsection 153(6) of the Act is replaced by the following:

(6) The following definitions apply in this section.

“designated financial institution” means a corporation that

(a) is a bank, other than an authorized foreign bank that is subject to the restrictions and requirements referred to in subsection 524(2) of the *Bank Act*;

(b) is authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public; or

(c) is authorized under the laws of Canada or a province to accept deposits from the public and carries on the business of lending money on the security of real property or immovables or investing in indebtedness on the security of mortgages on real property or of hypothecs on immovables.

“qualifying non-resident employee”, at any time in respect of a payment referred to in paragraph (1)(a), means an employee who

- (a) is, at that time, resident in a country with which Canada has a tax treaty;
- (b) is not liable to tax under this Part in respect of the payment because of that treaty; and
- (c) is not present in Canada for 90 days or more in any 12-month period that includes that time.

“qualifying non-resident employer” at any time means an employer

- (a) that is at that time
 - (i) in the case of an employer that is not a partnership, resident in a country with which Canada has a tax treaty, and
 - (ii) in the case of an employer that is a partnership, a partnership in respect of which the total of all amounts, each of which is a share of the partnership’s income or loss for the fiscal period that includes that time of a member that is, at that time, resident in a country with which Canada has a tax treaty, is not less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be \$1,000,000 for the purpose of determining a member’s share of the partnership’s income for the purposes of this subparagraph;
- (b) that does not, in its taxation year or fiscal period that includes that time, carry on business through a permanent establishment (as defined by regulation) in Canada; and
- (c) that is at that time certified by the Minister under subsection (7).

(7) The Minister may

- (a) certify an employer for a specified period of time if the employer has applied in prescribed form containing prescribed information and the Minister is satisfied that the employer
 - (i) meets the conditions in paragraph (a) of the definition “qualifying non-resident employer”,
 - (ii) does not carry on business through a permanent establishment (as defined by regulation) in Canada, and
 - (iii) meets the conditions established by the Minister; and
- (b) revoke an employer’s certification if the employer fails to comply with any of the conditions referred to in subparagraphs (a)(i) to (iii).

(3) Subsections (1) and (2) apply in respect of payments made after 2015.

38. (1) Section 227 of the Act is amended by adding the following after subsection (8.5):

(8.6) Subsection (8) does not apply to a qualifying non-resident employer (as defined in subsection 153(6)) in respect of a payment made to an employee if, after reasonable inquiry, the employer had no reason to believe at the time of the payment that the employee was not a qualifying non-resident employee (as defined in subsection 153(6)).

(2) Subsection (1) applies in respect of payments made after 2015.

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

8201. For the purposes of subsection 16.1(1), the definition “outstanding debts to specified non-residents” in subsection 18(5), subsections 100(1.3) and 112(2), the definition “qualified Canadian transit organization” in subsection 118.02(1), subsections 125.4(1) and 125.5(1), the definition “taxable supplier” in subsection 127(9), subparagraph 128.1(4)(b)(ii), subsections 153(6) and (7), paragraphs 181.3(5)(a) and 190.14(2)(b), the definitions “Canadian banking business” and “tax-indifferent investor” in subsection 248(1) and paragraph 260(5)(a) of the Act, a “permanent establishment” of a person or partnership (either of whom is referred to in this section as the “person”) means a fixed place of business of the person, including an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a workshop or a warehouse if the person has a fixed place of business and, where the person does not have any fixed place of business, the principal place at which the person’s business is conducted, and

(2) Subsection (1) comes into force on November 1, 2015, except that in its application before 2016, the portion of subsection 8201 before its paragraph (a), as enacted by subsection (1), is to be read without reference to subsections 153(6) and (7).

40. The Act and the *Income Tax Regulations* are further amended by making other consequential amendments as a result of sections 37 to 39.

Captive Insurance

41. (1) Paragraphs 95(2)(a.2) and (a.21) of the Act are replaced by the following:

(a.2) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer

(i) there shall be included the income of the affiliate for the year from the insurance of specified Canadian risks (which, for the purposes of this paragraph, includes income for the year from the reinsurance of specified Canadian risks), unless more than 90% of the gross premium revenue of the affiliate for the year from the insurance of risks (net of reinsurance ceded) was in respect of the insurance of risks (other than specified Canadian risks) of persons with whom the affiliate deals at arm’s length,

(ii) if subparagraph (i) applies to include income of the affiliate from the insurance of specified Canadian risks in computing the income of the affiliate from a business other than an active business,

(A) the insurance of those risks is deemed to be a separate business, other than an active business, carried on by the affiliate, and

(B) any income of the affiliate that pertains to or is incident to that business is deemed to be income from a business other than an active business,

(iii) except to the extent that the income is included in computing the income of the affiliate from a business other than an active business because of subparagraph (i) or (ii), there shall be included the income of the affiliate for the year in respect of the ceding of specified Canadian risks which, for the purposes of this paragraph, includes

(A) income of the affiliate from services in respect of the ceding of specified Canadian risks, and

(B) except to the extent that the amount is included under clause (A), an amount equal to the difference between the fair market value of the consideration provided in respect of the ceding of the specified Canadian risks and the affiliate's cost in respect of those specified Canadian risks, and

(iv) if subparagraph (iii) applies to include income of the affiliate in respect of the ceding of specified Canadian risks in computing the income of the affiliate from a business other than an active business,

(A) the ceding of those risks is deemed to be a separate business, other than an active business, carried on by the affiliate, and

(B) any income of the affiliate that pertains to or is incident to that business is deemed to be income from a business other than an active business;

(a.21) for the purposes of paragraph (a.2), one or more risks insured by a foreign affiliate of a taxpayer that, if this Act were read without reference to this paragraph, would not be specified Canadian risks (in this paragraph referred to as the "foreign policy pool") are deemed to be specified Canadian risks if

(i) the affiliate, or a person or partnership that does not deal at arm's length with the affiliate, enters into one or more agreements or arrangements in respect of the foreign policy pool,

(ii) the affiliate's risk of loss or opportunity for gain or profit in respect of the foreign policy pool, in combination with its risk of loss or opportunity for gain in respect of the agreements or arrangements, can reasonably be considered to be — or could reasonably be considered to be if the affiliate had entered into the agreements or arrangements entered into by the person or partnership — determined, in whole or in part, by reference to one or more criteria in respect of one or more risks insured by another person or partnership (in this paragraph referred to as the "tracked policy pool"), which criteria are

(A) the fair market value of the tracked policy pool,

(B) the revenue, income, loss or cash flow from the tracked policy pool, or

(C) any other similar criteria, and

(iii) 10% or more of the tracked policy pool consists of specified Canadian risks;

(2) Subsection 95(2) of the Act is amended by adding the following after paragraph (a.22):

(a.23) for the purposes of paragraphs (a.2) and (a.21), “specified Canadian risk” means a risk in respect of

- (i) a person resident in Canada,
- (ii) a property situated in Canada, or
- (iii) a business carried on in Canada;

(3) Subsections (1) and (2) apply to taxation years of a taxpayer that begin after April 20, 2015.

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE TAX ACT

That it is expedient to amend the *Excise Tax Act* as follows:

Alternative Arguments in Support of Assessments

1. The *Excise Tax Act* is modified in accordance with the proposals relating to alternative arguments in support of assessments described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Information Sharing for the Collection of Non-Tax Debts

2. (1) Paragraph 295(5)(d) of the Act is amended by adding the following after subparagraph (iv.2):

(iv.3) to an official solely for the purpose of the administration or enforcement of the *Canada Education Savings Act* or a designated provincial program, as defined in subsection 146.1(1) of the *Income Tax Act*,

(iv.4) to an official solely for the purpose of the administration or enforcement of the *Canada Disability Savings Act* or a designated provincial program, as defined in subsection 146.4(1) of the *Income Tax Act*,

(2) Paragraph 295(5)(d) of the Act is amended by adding the following after subparagraph (v):

(v.1) to an official of the Department of Employment and Social Development solely for the purpose of the administration or enforcement of a program established under the authority of the *Department of Employment and Social Development Act* in respect of children who are deceased or missing as a result of an offence, or a probable offence, under the *Criminal Code*,

(3) Paragraph 295(5)(d) of the Act is amended by striking out “or” at the end of subparagraph (vii), by adding “or” at the end of subparagraph (viii) and by adding the following after subparagraph (viii):

(ix) to an official of the Agency solely for the purpose of the collection of amounts owing to Her Majesty in right of Canada or of a province under the *Government Employees Compensation Act*, the *Canada Labour Code*, the *Merchant Seamen Compensation Act*, the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act*, the *Postal Services Continuation Act, 1997*, the *Wage Earner Protection Program Act*, the *Apprentice Loans Act* or a law of a province governing the granting of financial assistance to students at the post-secondary school level;

(4) Subsection 295(5) of the Act is amended by adding the following after paragraph (d):

(d.1) provide confidential information, or allow the inspection of or access to confidential information, as the case may be, under, and solely for the purposes of, paragraph 33.1(a) of the *Old Age Security Act*;

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE ACT, 2001

That it is expedient to amend the *Excise Act, 2001* as follows:

Alternative Arguments in Support of Assessments

1. The *Excise Act, 2001* is modified in accordance with the proposals relating to alternative arguments in support of assessments described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Information Sharing for the Collection of Non-Tax Debts

2. (1) Subsection 211(6) of the Act is amended by adding the following after paragraph (d):

(d.1) provide confidential information, or allow the inspection of or access to confidential information, as the case may be, under, and solely for the purposes of, paragraph 33.1(a) of the *Old Age Security Act*;

(2) Paragraph 211(6)(e) of the Act is amended by adding the following after subparagraph (iv):

(iv.1) to an official solely for the purpose of the administration or enforcement of the *Canada Education Savings Act* or a designated provincial program, as defined in subsection 146.1(1) of the *Income Tax Act*,

(iv.2) to an official solely for the purpose of the administration or enforcement of the *Canada Disability Savings Act* or a designated provincial program, as defined in subsection 146.4(1) of the *Income Tax Act*,

(3) Paragraph 211(6)(e) of the Act is amended by adding the following after subparagraph (v):

(v.1) to an official of the Department of Employment and Social Development solely for the purpose of the administration or enforcement of a program established under the authority of the *Department of Employment and Social Development Act* in respect of children who are deceased or missing as a result of an offence, or a probable offence, under the *Criminal Code*,

(4) Paragraph 211(6)(e) of the Act is amended by striking out “or” at the end of subparagraph (vii), by adding “or” at the end of subparagraph (viii) and by adding the following after subparagraph (viii):

(ix) to an official of the Agency solely for the purpose of the collection of amounts owing to Her Majesty in right of Canada or of a province under the *Government Employees Compensation Act*, the *Canada Labour Code*, the *Merchant Seamen Compensation Act*, the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act*, the *Postal Services Continuation Act, 1997*, the *Wage Earner Protection Program*

Act, the *Apprentice Loans Act* or a law of a province governing the granting of financial assistance to students at the post-secondary school level;