

Legislative Proposals Relating to the Income Tax Act and the Income Tax Regulations

Employee Ownership Trusts

1 (1) Section 15 of the *Income Tax Act* is amended by adding the following after subsection (2.5):

When s. 15(2) not to apply — employee ownership trusts

(2.51) Subsection (2) does not apply to a loan made or a debt that arose in respect of a qualifying business transfer if

(a) immediately following the qualifying business transfer,

(i) the lender or creditor is a qualifying business, and

(ii) the borrower is the employee ownership trust that controls the qualifying business described in subparagraph (i);

(b) the sole purpose of the loan or the debt is to facilitate the qualifying business transfer; and

(c) at the time the loan was made or the debt incurred, bona fide arrangements were made for repayment of the loan or debt within 15 years of the qualifying business transfer.

(2) Subsection (1) applies in respect of transactions that occur on or after January 1, 2024.

2 (1) Subparagraph 40(1)(a)(iii) of the Act before clause (A) is replaced by the following:

(iii) subject to subsections (1.1) to (1.3), such amount as the taxpayer may claim

(2) Section 40 of the Act is amended by adding the following after subsection (1.2):

Reserve — dispositions to employee ownership trusts

(1.3) In computing the amount that a taxpayer may claim under subparagraph (1)(a)(iii) in computing the taxpayer's gain from the disposition of a share of the capital stock of a qualifying business that subparagraph shall be read as if the references in that subparagraph to "1/5" and "4" were references to "1/10" and "9" respectively, if the shares of the qualifying business were disposed of by the taxpayer to an employee ownership trust, or to a Canadian-controlled private corporation that is controlled and wholly-owned by an employee ownership trust, pursuant to a qualifying business transfer.

(3) Subsections (1) and (2) apply in respect of transactions that occur on or after January 1, 2024.

3 (1) Subsection 80.4(3) of the Act is amended by striking out "or" at the end of paragraph (a), by adding "or" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) if the loan or debt satisfies the conditions in subsection 15(2.51) and is repaid within 15 years of the qualifying business transfer referred to in that subsection.

(2) Subsection (1) comes into force on January 1, 2024.

4 (1) Paragraph (a.1) of the definition *trust* in subsection 108(1) of the Act is replaced by the following:

(a.1) a trust (other than a trust described in paragraph (a), (d) or (h), a trust to which subsection 7(2) or (6) applies or a trust prescribed for the purpose of subsection 107(2)) all or substantially all of the property of which is held for

the purpose of providing benefits to individuals each of whom is provided with benefits in respect of, or because of, an office or employment or former office or employment of any individual,

(2) The definition *trust* in subsection 108(1) of the Act is amended by striking out “or” at the end of paragraph (f), by adding “or” at the end of paragraph (g) and by adding the following after paragraph (g):

(h) an employee ownership trust.

(3) Subsections (1) and (2) apply in respect of transactions that occur on or after January 1, 2024.

5 (1) The definition *employee benefit plan* in subsection 248(1) of the Act is amended by adding the following after paragraph (b):

(b.1) an employee ownership trust,

(2) The portion of the definition *employee trust* before paragraph (a) in subsection 248(1) of the Act is replaced by the following :

employee trust means an arrangement (other than an employee ownership trust, an employees profit sharing plan, a deferred profit sharing plan or a plan referred to in subsection 147(15) as a “revoked plan”) established after 1979

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

employee ownership trust means an irrevocable trust that, at all relevant times, satisfies the following conditions:

(a) the trust is resident in Canada (determined without reference to subsection 94(3)),

(b) the trust is exclusively for the benefit of all individuals each of whom

(i) is either

(A) an employee of one or more qualifying businesses controlled by the trust (other than an employee who has not completed an applicable probationary period, which may not exceed 12 months), or

(B) if the trust permits, an individual (or the estate of an individual) who is a former employee (other than a former employee who did not complete an applicable probationary period, of up to 12 months, during their employment) of one or more qualifying businesses controlled by the trust and who was an employee of the qualifying business while the trust controlled the qualifying business,

(ii) does not own, directly or indirectly (other than through an interest in the trust), shares of a class of the capital stock of a qualifying business controlled by the trust, the value of which is equal to or greater than 10% of the fair market value of the class,

(iii) does not own, directly or indirectly, together with any person or partnership that is related to or affiliated with the individual, shares of a class of the capital stock of a qualifying business controlled by the trust, the value of which is equal to or greater than 50% of the fair market value of the class, and

(iv) immediately before the time of a qualifying business transfer to the trust, did not own, directly or indirectly, together with any person or partnership that is related to or affiliated with the individual, shares of the capital stock or indebtedness of the qualifying business, the value of which is equal to or greater than 50% of the fair market value of the shares of the capital stock and indebtedness of the qualifying business,

(c) the capital and income interests of each beneficiary described in clause (b)(i)(A) or (B) are determined in the same manner as the other beneficiaries described in those clauses, as applicable, based solely on a reasonable and equitable application of any combination of the following criteria:

(i) the total hours of employment service provided by the beneficiary to the qualifying business,

(ii) the total salary, wages and other remuneration paid or payable to the beneficiary by the qualifying business, and

(iii) the total period of employment service the beneficiary has provided to the qualifying business;

(d) the trustees are prohibited from exercising their discretion to act in the interest of one beneficiary (or group of beneficiaries) to the prejudice of another beneficiary (or group of beneficiaries),

(e) each trustee of the trust is either a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee or an individual (other than a trust),

(f) each trustee has an equal vote in the conduct of the affairs of the trust,

(g) at least one-third of the trustees must be beneficiaries described in clause (b)(i)(A),

(h) if any trustee is appointed (other than by an election within the last five years by the beneficiaries described in clause (b)(i)(A)), at least 60% of all trustees must be persons that deal at arm's length with each person who has, directly or indirectly in any manner whatever, as part of a transaction or event or series of transactions or events, sold shares of a qualifying business to the trust (or to any person or partnership affiliated with the trust) prior to or in connection with the trust acquiring control of the qualifying business,

(i) more than 50% of the beneficiaries of the trust described in clause (b)(i)(A) must approve each of the following transactions or events prior to their occurrence:

(i) any transaction or event or series of transactions or events that causes the trust to cease to control a qualifying business,

(ii) a disposition of all or substantially all of the assets of a qualifying business, and

(iii) a winding-up, amalgamation or merger of a qualifying business, and

(j) all or substantially all the fair market value of the property of the trust is attributable to shares of the capital stock of one or more qualifying businesses that the trust controls; (*fiducie collective des employés*)

qualifying business, at a particular time, means a corporation controlled by a trust

(a) that is a Canadian-controlled private corporation,

(b) not more than 40% of the directors of which consist of individuals that, immediately before the time that the trust acquired control of the corporation, owned, directly or indirectly, together with any person or partnership that is related to or affiliated with the director, 50% or more of the fair market value of any class of the shares of the capital stock or indebtedness of the corporation, and

(c) that deals at arm's length and is not affiliated with any person or partnership that owned, directly or indirectly, 50% or more of the fair market value of the shares of the capital stock or indebtedness of the corporation immediately before the time the trust acquired control of the corporation; (*entreprise admissible*)

qualifying business transfer means a disposition by a taxpayer of shares of the capital stock of a corporation (in this definition referred to as the "subject corporation") to a trust, or to a Canadian-controlled private corporation (in this definition referred to as the "purchaser corporation") that is controlled and wholly-owned by a trust, if

(a) immediately before the disposition, all or substantially all the fair market value of the assets of the subject corporation is attributable to assets (other than an interest in a partnership) that are used principally in an active business (referred to in this definition as the "business") carried on by the subject corporation or a corporation that is controlled and wholly-owned by the subject corporation,

(b) at the time of the disposition,

- (i) the taxpayer deals at arm's length with the trust and any purchaser corporation,
 - (ii) the trust acquires control of the subject corporation, and
 - (iii) the trust is an employee ownership trust, the beneficiaries of which are employed in the business, and
- (c) at all times after the disposition,
- (i) the taxpayer deals at arm's length with the subject corporation, the trust and any purchaser corporation, and
 - (ii) the taxpayer does not retain any right or influence that, if exercised, would allow the taxpayer (whether alone or together with any person or partnership that is related to or affiliated with the taxpayer) to control, directly or indirectly in any manner whatever, the subject corporation, the trust, or any purchaser corporation; (*transfert admissible d'entreprise*)

(4) Subsections (1) to (3) comes into force on January 1, 2024.

Retirement Compensation Arrangements

1 (1) Paragraph 12(1)(n.3) of the Act is replaced by the following:

Retirement compensation arrangement

(n.3) the total of all amounts received by the taxpayer in the year in the course of a business out of or under a retirement compensation arrangement (including amounts received in respect of the arrangement pursuant to subsection 207.71(3)) to which the taxpayer, another person who carried on a business that was acquired by the taxpayer, or any person with whom the taxpayer or that other person does not deal at arm's length, has contributed an amount that was deductible under paragraph 20(1)(r) in computing the contributor's income for a taxation year;

(2) Subsection (1) applies to the 2024 and subsequent taxation years.

2 (1) Paragraph (a) of the definition *refundable tax* in subsection 207.5(1) of the Act is replaced by the following:

(a) 50% of all contributions (other than an excluded contribution made on or after March 28, 2023) made under the arrangement while it was a retirement compensation arrangement and before the end of the year, and

(2) Subsection 207.5(1) of the Act is amended by adding the following in alphabetical order:

excluded contribution means an amount paid or payable under a specified arrangement to obtain or renew a letter of credit or surety bond issued by a financial institution for the purposes of securing future retirement benefit payments out of or under the arrangement; (*cotisation exclue*)

specified arrangement means a retirement compensation arrangement of which the primary purpose is to provide annual or more frequent periodic retirement benefit payments

- (a)** that are supplemental to the benefits provided out of or under
 - (i) a registered pension plan,
 - (ii) a registered retirement savings plan,
 - (iii) a deferred profit sharing plan,
 - (iv) a pooled registered pension plan, or
 - (v) any combination of plans described in subparagraphs (i) to (iv), or

(b) under an arrangement that would, but for subsection 147.1(8) and section 8504 of the *Income Tax Regulations*, meet all or substantially all of the prescribed conditions for registration for a registered pension plan under section 8501 of those Regulations; (*convention déterminée*)

(3) Subsections (1) and (2) are deemed to have come into force on March 28, 2023.

3 (1) The Act is amended by adding the following after section 207.7:

Definitions

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

eligible employer means an employer that, before March 28, 2023, paid an amount under a specified arrangement that is an excluded contribution. (*employeur admissible*)

specified refundable tax of a specified arrangement at the end of a taxation year means the amount, if any, determined by the formula

$$A - B$$

where

A is the amount elected under paragraph (2)(c); and

B is the total of all amounts, if any, each of which is a refund as determined under subsection (3), in respect of a preceding taxation year. (*impôt remboursable déterminé*)

Election

(2) Subsection (3) applies to a specified arrangement if

(a) an eligible employer, or the custodian of the arrangement, paid a refundable tax under this Part with respect to an excluded contribution made under the arrangement before March 28, 2023;

(b) the eligible employer files an election with the Minister, in prescribed form and manner; and

(c) the election includes an elected amount that does not exceed the total amount of refundable tax paid with respect to excluded contributions made under the arrangement before March 28, 2023.

Amount of refund

(3) If this subsection applies to a specified arrangement, the Minister may refund to the eligible employer an amount claimed by the eligible employer on the return for a taxation year described in subsection 207.7(3), not exceeding the lesser of

(a) 50% of all retirement benefits paid in the taxation year directly by the eligible employer for the benefit of beneficiaries whose retirement benefits were secured under the specified arrangement with a letter of credit or surety bond issued by a financial institution; and

(b) the specified arrangement's specified refundable tax at the end of the taxation year.

Refundable tax definition

(4) Where an eligible employer claims a refund under subsection (3) for a year, paragraph (c) of the definition *refundable tax* in subsection 207.5(1) shall be read as follows:

(c) the total of

(i) 50% of all amounts paid as distributions to one or more persons (including amounts that are required by paragraph 12(1)(n.3) to be included in computing the recipient's income) under the arrangement while it was a retirement compensation arrangement and before the end of the year, other than a distribution paid where it is established, by subsequent events or otherwise, that the distribution was paid as part of a series of payments and refunds of contributions under the arrangement, and

(ii) all amounts determined under subsection 207.71(3) in respect of the specified arrangement for the year and a preceding year;

(2) Subsection (1) applies to the 2024 and subsequent taxation years.

Alternative Minimum Tax for High-Income Individuals

1 (1) The description of A in section 127.51 of the Act is replaced by the following:

A is 20.5%;

(2) Paragraph (a) of the description of C in section 127.51 of the Act is replaced by the following:

(a) the first dollar amount for the year referred to in paragraph 117(2)(d), in the case of an individual (other than a trust) or a qualified disability trust (as defined in subsection 122(3)); and

(3) The description of D in section 127.51 of the Act is replaced by the following:

D is one half of the individual's basic minimum tax credit for the year determined under section 127.531.

(4) Subsections (1) to (3) apply to taxation years that begin after December 31, 2023.

2 (1) Subparagraph 127.52(1)(d)(i) of the Act is replaced by the following:

(i) the references to the fraction applicable to the individual for the year in each of paragraphs 38(a) and (b) and section 41 were read as a reference to "1/1", and

(2) The formula in subparagraph 127.52(1)(d)(ii) of the Act is replaced by the following:

$$(A \div B)$$

(3) Subsection 127.52(1) of the Act is amended by adding the following after paragraph (d):

(d.1) in respect to a disposition to which paragraph 38(a.1) applies, the portion of that paragraph before subparagraph (i) were read as "a taxpayer's taxable capital gain for a taxation year from the disposition of a property is equal to 3/10 of the taxpayer's capital gain for the year from the disposition of the property if"

(4) The portion before clause (A) of subparagraph 127.52(1)(g)(ii) of the Act is replaced by the following:

(ii) the total of all amounts each of which is

(5) Subparagraphs 127.52(1)(h)(i) to (iv) of the Act are replaced by the following:

(i) the amounts deducted under subsection 110(2),

(ii) 7/5 of the amounts deducted under any of subsections 110.6(2) and (2.1) and paragraph 110(1)(d.01),

(iii) $\frac{1}{2}$ of the amount deducted for the year under any of

(A) paragraph 110(1)(f) in respect of an amount that was included in the individual's income for the year under clause 56(1)(a)(i)(A) or paragraph 56(1)(u), and

(B) subparagraphs 110(1)(f)(ii) and (v),

(iv) 1/2 of the amount deducted for the year under subsection 110.7(1), and

(6) Clause 127.52(1)(i)(i)(A) of the Act is replaced by the following:

(A) the total of

(I) all amounts deducted for the year under paragraphs 111(1)(c) and (d), and

(II) 1/2 of all amounts deducted for the year under paragraphs 111(1)(a) and (e), and

(7) The portion of clause 127.52(1)(i)(i)(B) of the Act before subclause (I) is replaced by the following:

(B) the total of all amounts that would be deductible under those paragraphs for the year if the amount that would be deductible under paragraphs 111(1)(a) and (e) was 1/2 of the amount that would otherwise be deductible under those paragraphs, and if

(8) Clause 127.52(1)(i)(ii)(A) of the Act is replaced by the following:

(A) the total of all amounts deducted under paragraph 111(1)(b), and

(9) Paragraph 127.52(1)(i) of the Act is amended by striking out “and” at the end of subclause (ii)(B)(II) and by replacing subclause (ii)(B)(III) by the following:

(III) paragraphs (c.1) and (d) of this subsection applied in computing the individual’s net capital loss for any taxation year that ends after 2011 and begins before 2024; and

(IV) paragraph (c.1) of this subsection applied in computing the individual’s net capital loss for any taxation year that begins after 2023;

(10) Subsection 127.52(1) of the Act is amended by adding “and” at the end of paragraph (j) and by adding the following after paragraph (j):

(k) in computing the individual’s income for the year or taxable income for the year, as the case may be, the individual deducted 1/2 of the amount that the individual actually deducted for the year under each of

(i) paragraphs 8(1)(c) to (e), (g) to (l.2) and (p) to (t),

(ii) paragraphs 20(1)(c) to (f) in respect of an amount borrowed to earn income from property for the year, other than an amount

(A) described under any of paragraphs 127.51(1)(b), (c), (c.2), (c.3) and (e.1), or

(B) borrowed by an employee ownership trust (or a Canadian-controlled private corporation that is controlled and wholly-owned by an employee ownership trust) to acquire a qualifying business pursuant to a qualifying business transfer,

(iii) paragraphs 60(e), (e.1) and (g),

(iv) subsections 62(1) and (2),

(v) subsections 63(1) and (2.2), and

(vi) section 64.

(11) Subsections (1) to (10) apply to taxation years that begin after December 31, 2023.

3 (1) Paragraph 127.531(a) of the Act is replaced by the following:

(a) an amount deducted under any of subsections 118(1), (2), (3) and (10), sections 118.01 to 118.07, subsections 118.3(1), (2) and (3) sections 118.5 to 118.9 and 119 and subsection 127(1) in computing the individual's tax payable for the year under this Part; or

(2) Subsection (1) applies to taxation years that begin after December 31, 2023.

4 (1) Paragraph 127.55(f) of the Act is replaced by the following:

(f) a taxation year of a trust throughout which the trust is

(i) a trust referred to in

(A) paragraph 150(1.2)(f) to (j), (l) or (n), or

(B) paragraph 204.2(2)(c) of the *Income Tax Regulations*,

(ii) an *investment fund* as defined under subsection 251.2(1), unless the trust is an investment fund throughout the taxation year as part of a transaction or event or series of transactions or events one of the main purposes of which is to avoid tax under this Division,

(iii) a trust

(A) all of the beneficiaries of which are

(I) exempt from tax under this Division, or

(II) trusts, all of the beneficiaries of which are exempt from tax under this Division,

(B) that at no time can a person that is not described in subclause (A)(I) or (II) be added as a beneficiary,

(C) in which all interests are *fixed interests* as defined in subsection 94(1), and

(D) that is irrevocable,

(iv) that is exempt from tax under this Part, or

(v) a trust deemed to have been created under paragraph 143(1)(a).

(2) Subsection (1) applies to taxation years that begin after December 31, 2023.

Intergenerational Business Transfers

1 (1) The portion of subparagraph 40(1)(a)(iii) of the Act before clause (A) is replaced by the following:

(iii) subject to subsections (1.1) to (1.3), such amount as the taxpayer may claim

(2) Section 40 of the Act is amended by adding the following after subsection (1.1):

Reserve — intergenerational business transfers

(1.2) In computing the amount that a taxpayer may claim under subparagraph (1)(a)(iii) on a disposition of shares of the capital stock of a corporation resident in Canada to another corporation, that subparagraph shall be read as if the references to “1/5” and “4” were references to “1/10” and “9” respectively, if the conditions in subsection 84.1(2.31) or (2.32) are satisfied in respect of the disposition.

(3) Subsections (1) and (2) come into force on January 1, 2024.

2 (1) Paragraph 84.1(2)(e) of the Act is replaced by the following:

(e) notwithstanding any other paragraph in this subsection, if this paragraph applies because of subsection (2.31) or (2.32) to a disposition of subject shares by a taxpayer to a purchaser corporation, the taxpayer and the purchaser corporation are deemed to deal with each other at arm's length at the time of the disposition of the subject shares.

(2) Subsection 84.1(2.3) of the Act is replaced by the following:

Rules for subsections (2.31) and (2.32)

(2.3) For the purposes of subsections (2.31) and (2.32),

(a) a *child* of a taxpayer has the same meaning as in subsection 70(10) and also includes

(i) a niece or nephew of the taxpayer,

(ii) a niece or nephew of the taxpayer's spouse or common-law partner,

(iii) a spouse or common-law partner of a niece or nephew referred to in subparagraph (i) or (ii), and

(iv) a child of a niece or nephew referred to in subparagraph (i) or (ii);

(b) for the purposes of applying subparagraphs (2.31)(a)(i) and (2.32)(a)(i), a subject corporation that is controlled by the spouse or common-law partner of a taxpayer shall also be considered to be controlled by the taxpayer together with a spouse or common-law partner of the taxpayer;

(c) for the purposes of applying subparagraphs (2.31)(c)(iii) and (2.32)(c)(iii), if the relevant group entity is a partnership,

(i) the partnership is deemed to be a corporation (in this paragraph referred to as the "deemed corporation"),

(ii) the deemed corporation is deemed to have a capital stock of a single class of shares, with a total of 100 issued and outstanding shares,

(iii) each member (in this paragraph referred to as a "deemed shareholder") of the deemed corporation is deemed to be a shareholder of the deemed corporation,

(iv) each deemed shareholder of the deemed corporation is deemed to hold a number of shares in the capital stock of the deemed corporation determined by the formula

$$A \times 100$$

where

A is equal to

(A) the deemed shareholder's specified proportion for the last fiscal period of the deemed corporation, or

(B) if the deemed shareholder does not have a specified proportion described in clause (A), the proportion that the fair market value of the deemed shareholder's interest in the deemed corporation at that time is of the fair market value of all interests in the deemed corporation at that time, and

(v) the deemed corporation's fiscal period is deemed to be its taxation year;

(d) the term "own, directly or indirectly" and "owned, directly or indirectly" in respect of a property, means

(i) direct ownership of the property, and

(ii) an ownership interest in the shares of a corporation, an interest in a partnership or an interest in a trust that has a direct or indirect interest, or for civil law a right, in the property, and for the purposes of paragraphs (2.31)(d) and (e) and (2.32)(d) and (e), property does not include non-voting preferred shares and debt of

(A) the purchaser corporation,

(B) the subject corporation, or

(C) any relevant group entity (all of which terms have the meaning assigned by subsections (2.31) and (2.32));

(e) if a person or partnership's share of the accumulating income or capital of a trust in respect of which the person or partnership has an interest as a beneficiary depends on the exercise by a person (referred to in this paragraph as a "trustee") of, or the failure by any trustee to exercise, a discretionary power, that trustee is deemed to have fully exercised the power, or to have failed to exercise the power, as the case may be;

(f) if one or more children referred to in

(i) subparagraph (2.31)(f)(i) have disposed of, or caused the disposition of, all of the shares in the capital stock of the purchaser corporation, the subject corporation or all relevant group entities (within the meaning of subparagraph (2.31)(c)(iii)) to an arm's length person or group of persons, the conditions in paragraphs (2.31)(f) and (g) are deemed to be met as of the time of the disposition, provided that all equity interests in all relevant businesses (within the meaning of subparagraph (2.31)(c)(iii)) held, directly or indirectly, by each child referred to in subparagraph (2.31)(f)(i) are included in the disposition, or

(ii) subparagraph (2.32)(g)(i) have disposed of, or caused the disposition of, all of the shares in the capital stock of the purchaser corporation, the subject corporation or all relevant group entities (within the meaning of subparagraph (2.32)(c)(iii)) to an arm's length person or group of persons, the conditions in paragraphs (2.32)(g) and (h) are deemed to be met as of the time of the disposition, provided that all equity interests in all relevant businesses (within the meaning of subparagraph (2.32)(c)(iii)) held, directly or indirectly, by each child referred to in subparagraph (2.32)(g)(i) are included in the disposition; and

(g) if one or more children referred to in

(i) subparagraph (2.31)(f)(i) have disposed of, or caused the disposition of, the shares in the capital stock of the purchaser corporation, the subject corporation or a relevant group entity (within the meaning of subparagraph (2.31)(c)(iii)) to another child or group of children of the taxpayer (in this paragraph referred to as the "new child" or the "new children"), the conditions in paragraphs (2.31)(f) and (g) are deemed

(A) to be met as of the time of the disposition, and

(B) to continue to apply to the new child (or the new children) and any other member of the group of children that controls the subject corporation and the purchaser corporation at the time of the disposition, or

(ii) subparagraph (2.32)(g)(i) have disposed of, or caused the disposition of, the shares in the capital stock of the purchaser corporation, the subject corporation, or a relevant group entity (within the meaning of subparagraph (2.32)(c)(iii)) to another child or group of children of the taxpayer (in this paragraph referred to as the "new child" or the "new children"), the conditions in paragraphs (2.32)(g) and (h) are deemed

(A) to be met as of the time of the disposition, and

(B) to continue to apply to the new child (or the new children) and any other member of the group of children that controls the subject corporation and the purchaser corporation at the time of the disposition;

(h) if a child, or each of the children, referred to in

(i) subparagraph (2.31)(f)(ii) has died or has, after the disposition of the subject shares, suffered one or more severe and prolonged impairments in physical or mental functions, the conditions in paragraphs (2.31)(f) and (g) are deemed to be met as of the time of the death or mental or physical impairment, or

(ii) subparagraph (2.32)(g)(ii) has died or has, after the disposition of the subject shares, suffered one or more severe and prolonged impairments in physical or mental functions, the conditions in paragraphs (2.32)(g) and (h) are deemed to be met as of the time of the death or mental or physical impairment;

(i) if a business of a subject corporation or a relevant group entity (within the meaning of subparagraph (2.31)(c)(iii) or (2.32)(c)(iii), as applicable) has ceased to be carried on due to the disposition of all of the assets that were used to carry on the business in order to satisfy debts owed to creditors of the corporation or of the entity, the condition in subparagraph (2.31)(f)(iii) or (2.32)(g)(iii) (as applicable) in respect of the business is deemed to be met as of the time of the disposition; and

(j) for the purposes of paragraphs (2.31)(g) and (2.32)(h), management refers to the direction or supervision of business activities but does not include the provision of advice.

Immediate intergenerational business transfer

(2.31) Paragraph (2)(e) applies at the time of a disposition of subject shares by a taxpayer to a purchaser corporation if the following conditions are met:

(a) immediately before the disposition of the subject shares (referred to in this subsection as the “disposition time”),

(i) the taxpayer – either alone or together with a spouse or common-law partner of the taxpayer – controls the subject corporation, and no other person or group of persons controls, directly or indirectly in any manner whatever, the subject corporation, and

(ii) the taxpayer has not, at any time previously, sought an exception to the application of subsection (1) pursuant to paragraph (2)(e) in respect of a disposition of shares that, at that time, derived their value from an active business that is relevant to the determination of whether the subject shares satisfy subparagraph (b)(iii);

(b) at the disposition time,

(i) the taxpayer is an individual (other than a trust),

(ii) the purchaser corporation is controlled by one or more children (within the meaning of paragraph (2.3)(a), referred to in this subsection as the “child” or “children”) of the taxpayer, each of whom is 18 years of age or older, and

(iii) the subject shares are *qualified small business corporation shares* or *shares of the capital stock of a family farm or fishing corporation* as defined in subsection 110.6(1);

(c) at all times after the disposition time, the taxpayer does not – either alone or together with a spouse or common law partner of the taxpayer – control, directly or indirectly in any manner whatever,

(i) the subject corporation,

(ii) the purchaser corporation, or

(iii) any other person or partnership (referred to in this subsection as a “relevant group entity”) that carries on, at the disposition time, an active business (referred to in this subsection as a “relevant business”) that is relevant to the determination of whether the subject shares satisfy the condition in subparagraph (b)(iii);

(d) at all times after the disposition time, the taxpayer does not – either alone or together with a spouse or common law partner of the taxpayer – own, directly or indirectly,

(i) 50% or more of any class of shares, other than shares of a *specified class* as defined in subsection 256(1.1) (in this subsection referred to as “non-voting preferred shares”), of the capital stock of the subject corporation or of the purchaser corporation, or

(ii) 50% or more of any class of equity interest (other than non-voting preferred shares) in any relevant group entity;

(e) within 36 months of the disposition time and at all times thereafter, the taxpayer and a spouse or common-law partner of the taxpayer does not own, directly or indirectly,

- (i) any shares, other than non-voting preferred shares of the capital stock of the subject corporation or of the purchaser corporation, or
 - (ii) any equity interest (other than non-voting preferred shares) in any relevant group entity;
- (f) subject to subsection (2.3), from the disposition time until 36 months after that time,
- (i) the child or group of children, as the case may be, controls the subject corporation and the purchaser corporation,
 - (ii) the child, or at least one member of the group of children, as the case may be, is actively engaged on a regular, continuous and substantial basis (within the meaning of paragraph 120.4(1.1)(a)) in a relevant business of the subject corporation or a relevant group entity, and
 - (iii) each relevant business of the subject corporation and any relevant group entity is carried on as an active business;
- (g) subject to subsection (2.3), within 36 months of the disposition time or such greater period of time as is reasonable in the circumstances, the taxpayer and a spouse or common-law partner of the taxpayer takes reasonable steps to
- (i) transfer management of each relevant business of the subject corporation and any relevant group entity to the child or at least one member of the group of children referred to in subparagraph (f)(ii), and
 - (ii) permanently cease to manage each relevant business of the subject corporation and any relevant group entity; and
- (h) the taxpayer and the child, or the taxpayer and each member of the group of children, as the case may be,
- (i) jointly elect, in prescribed form, for paragraph (2)(e) to apply in respect of the disposition of the subject shares, and
 - (ii) file the election with the Minister on or before the taxpayer's filing-due date for the taxation year that includes the disposition time.

Gradual intergenerational business transfer

(2.32) Paragraph (2)(e) applies at the time of a disposition of subject shares by a taxpayer to a purchaser corporation if the following conditions are met:

- (a) immediately before the disposition of the subject shares (referred to in this subsection as the "disposition time"),
 - (i) the taxpayer — either alone or together with a spouse or common-law partner of the taxpayer — controls the subject corporation, and no other person or group of persons controls, directly or indirectly in any manner whatever, the subject corporation, and
 - (ii) the taxpayer has not, at any time, previously sought an exception to the application of subsection (1) pursuant to paragraph (2)(e) in respect of a disposition of shares that, at that time, derived their value from an active business that is relevant to the determination of whether the subject shares satisfy subparagraph (b)(iii);
- (b) at the disposition time,
 - (i) the taxpayer is an individual (other than a trust),
 - (ii) the purchaser corporation is controlled by one or more children (within the meaning of paragraph (2.3)(a), and referred to in this subsection as the "child" or "children") of the taxpayer, each of whom is 18 years of age or older, and

- (iii)** the subject shares are *qualified small business corporation shares* or *shares of the capital stock of a family farm or fishing corporation* as defined in subsection 110.6(1);
- (c)** at all times after the disposition time, the taxpayer does not — either alone or together with a spouse or common law partner of the taxpayer — control
 - (i)** the subject corporation,
 - (ii)** the purchaser corporation, or
 - (iii)** any person or partnership (referred to in this subsection as a “relevant group entity”) that carries on, at the disposition time, an active business (referred to in this subsection as a “relevant business”) that is relevant to the determination of whether the subject shares satisfy the condition in subparagraph (b)(iii);
- (d)** at all times after the disposition time, the taxpayer does not — either alone or together with a spouse or common law partner of the taxpayer — own, directly or indirectly,
 - (i)** 50% or more of any class of shares, other than shares of a *specified class* as defined in subsection 256(1.1) (in this subsection referred to as “non-voting preferred shares”), of the capital stock of the subject corporation or of the purchaser corporation, or
 - (ii)** 50% or more of any class of equity interest (other than non-voting preferred shares) in any relevant group entity;
- (e)** within 36 months of the disposition time and at all times thereafter, the taxpayer and a spouse or common-law partner of the taxpayer does not own, directly or indirectly,
 - (i)** any shares, other than non-voting preferred shares of the capital stock of the subject corporation or of the purchaser corporation, or
 - (ii)** any equity interest (other than non-voting preferred shares) in any relevant group entity;
- (f)** within 10 years after the disposition time (referred to in this subsection as the “final sale time”) and at all times after, the taxpayer and a spouse or common-law partner of the taxpayer does not own, directly or indirectly,
 - (i)** in the case of a disposition of subject shares that are, at the disposition time, *shares of the capital stock of a family farm or fishing corporation* as defined in subsection 110.6(1), interests (including any debt or equity interest) in any of the subject corporation, the purchaser corporation, and any relevant group entity with a fair market value that exceeds 50% of the fair market value of all the interests that were owned, directly or indirectly, by the taxpayer and a spouse or common-law partner of the taxpayer immediately before the disposition time, or
 - (ii)** in the case of a disposition of subject shares that are, at the disposition time, *qualified small business corporation shares* as defined in subsection 110.6(1) (other than subject shares described in subparagraph (i)), interests (including any debt or equity interest) in any of the subject corporation, the purchaser corporation and any relevant group entity with a fair market value that exceeds 30% of the fair market value of all the interests that were owned, directly or indirectly, by the taxpayer and a spouse or common-law partner of the taxpayer immediately before the disposition time;
- (g)** subject to subsection (2.3), from the disposition time until the later of 60 months after the disposition time and the final sale time,
 - (i)** the child or group of children, as the case may be, controls the subject corporation and the purchaser corporation,
 - (ii)** the child, or at least one member of the group of children, as the case may be, is actively engaged on a regular, continuous and substantial basis (within the meaning of paragraph 120.4(1.1)(a)) in a relevant business of the subject corporation or a relevant group entity, and

(iii) any relevant business of the subject corporation and any relevant group entity is carried on as an active business;

(h) subject to subsection (2.3), within 60 months of the disposition time or such greater period of time as is reasonable in the circumstances, the taxpayer and a spouse or common-law partner of the taxpayer takes reasonable steps to

(i) transfer management of each relevant business of the subject corporation and any relevant group entity to the child or at least one member of the group of children referred to in subparagraph (g)(ii), and

(ii) permanently cease to manage each relevant business of the subject corporation and any relevant group entity; and

(i) the taxpayer and the child, or the taxpayer and each member of the group of children, as the case may be,

(i) jointly elect, in prescribed form, for paragraph (2)(e) to apply in respect of the disposition of the subject shares, and

(ii) file the election with the Minister on or before the taxpayer's filing-due date for the taxation year that includes the disposition time.

(3) Subsections (1) and (2) apply to dispositions of shares that occur on or after January 1, 2024.

3 (1) Paragraph 87(2)(j.6) of the Act is replaced by the following:

Continuing corporation

(j.6) for the purposes of paragraphs 12(1)(t) and (x), subsections 12(2.2) and 13(7.1), (7.4) and (24), paragraphs 13(27)(b) and (28)(c), subsections 13(29) and 18(9.1), paragraphs 20(1)(e), (e.1), (v) and (hh), sections 20.1 and 32, paragraph 37(1)(c), subsection 39(13), subparagraphs 53(2)(c)(vi) and (h)(ii), paragraph 53(2)(s), subsections 53(2.1), 66(11.4), 66.7(11), 84.1(2.31) and (2.32) and 127(10.2), section 139.1, subsection 152(4.3), the determination of D in the definition *undepreciated capital cost* in subsection 13(21) and the determination of L in the definition *cumulative Canadian exploration expense* in subsection 66.1(6), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(2) Subsection (1) comes into force on January 1, 2024.

4 (1) Subsection 152(4) of the Act is amended by adding the following after paragraph (b.7):

(b.8) the assessment, reassessment or additional assessment is made before the day that is

(i) three years after the end of the normal reassessment period for the taxpayer in respect of the year and made in respect of a disposition, in the year, of shares of the capital stock of a corporation resident in Canada in respect of which the taxpayer filed an election under paragraph 84.1(2.31)(h), or

(ii) ten years after the end of the normal reassessment period for the taxpayer in respect of the year and made in respect of a disposition, in the year, of shares of the capital stock of a corporation resident in Canada in respect of which the taxpayer filed an election under paragraph 84.1(2.32)(i);

(2) Subsection (1) comes into force on January 1, 2024.

5 (1) Section 160 of the Act is amended by adding the following after subsection (1.4):

Joint liability – intergenerational business transfer

(1.5) If a taxpayer and one or more other taxpayers have jointly elected under

(a) paragraph 84.1(2.31)(h) in respect of a disposition of shares of the capital stock of a corporation resident in Canada, they are jointly and severally, or solidarily, liable for the tax payable by the taxpayer under this Part to the extent

that the tax payable by the taxpayer is greater than it would have been if the disposition had satisfied the conditions of subsection 84.1(2.31); or

(b) paragraph 84.1(2.32)(i) in respect of a disposition of shares of the capital stock of a corporation resident in Canada, they are jointly and severally, or solidarily, liable for the tax payable by the taxpayer under this Part to the extent that the tax payable by the taxpayer is greater than it would have been if the disposition had satisfied the conditions of subsection 84.1(2.32).

(2) Subsection (1) comes into force on January 1, 2024.

Investment Tax Credit for Carbon Capture, Utilization, and Storage

Income Tax Act

1 (1) The Act is amended by adding the following after section 127.43:

Definitions

127.44 (1) The following definitions apply in this section, Part XII.7 and in Schedule II to the *Income Tax Regulations*.

CCUS process means the process of carbon capture, utilization and storage that includes the

- (a) capture of carbon dioxide
 - (i) that would otherwise be released into the atmosphere, or
 - (ii) directly from the ambient air; and
- (b) storage or use of the captured carbon. (*processus de CUSC*)

CCUS project means a project that is intended to support a CCUS process by

- (a) capturing carbon dioxide
 - (i) that would otherwise be released into the atmosphere, or
 - (ii) directly from the ambient air;
- (b) transporting captured carbon; or
- (c) storing or using captured carbon. (*projet de CUSC*)

CCUS tax credit means an amount deemed under subsection (2) to have been paid by a taxpayer on account of its tax payable under this Part for the year. (*crédit d'impôt pour le CUSC*)

captured carbon means captured carbon dioxide that

- (a) would otherwise be released into the atmosphere; or
- (b) is captured directly from the ambient air. (*carbone capté*)

dedicated geological storage in respect of a CCUS project means a geological formation located in a jurisdiction that was a designated jurisdiction at the time that the first qualified CCUS expenditure was made in respect of the project and that is, at the time a relevant expenditure is incurred,

- (a) capable of permanently storing captured carbon; and
- (b) a formation in which no captured carbon is used for enhanced oil recovery. (*stockage géologique dédié*)

designated jurisdiction means

- (a) the provinces of Alberta, British Columbia and Saskatchewan; and
- (b) any other jurisdiction within Canada (including the exclusive economic zone of Canada, within the meaning of the *Oceans Act*, or in the airspace above that zone or the seabed or subsoil below that zone) or the United States for which a designation by the Minister of the Environment under subsection (13) is in effect. (*jurisdiction désignée*)

dual use equipment means equipment that is

- (a) verified by the Minister of Natural Resources as property
 - (i) that would be described in subparagraph (a)(iii) or (iv) of Class 57 in Schedule II to the *Income Tax Regulations* if its paragraph (a) were read without reference to the words “hydrogen production” and “solely”, and
 - (ii) that
 - (A) collects, recovers, treats or recirculates water, or a combination of any of those activities, in support of a CCUS project, or
 - (B) produces electrical power, heat or a combination of electrical power and heat, and more than 50% of either the electrical power or heat that is expected to be produced over the total CCUS project review period, based on the most recent project plan, is expected to support a qualified CCUS project or hydrogen production that qualifies for the clean hydrogen investment tax credit described in Budget 2023,
- (b) in relation to equipment described in paragraph (a), verified by the Minister of Natural Resources as property described in paragraphs (d) or (e) or subparagraph (f)(i) of Class 57; or
- (c) in relation to equipment described in paragraph (a), described in subparagraph (f)(ii) of Class 57. (*matériel à double usage*)

eligible use means

- (a) the storage of captured carbon in dedicated geological storage; or
- (b) the use of captured carbon in producing concrete in Canada or the United States using a qualified concrete storage process. (*utilisation admissible*)

first day of commercial operations means the day on which captured carbon dioxide is first delivered to a carbon transportation, carbon storage or carbon use system for the purpose of storage or use. (*premier jour des activités commerciales*)

ineligible use means

- (a) the emission of captured carbon into the atmosphere, other than an incidental or insignificant emission made in the ordinary course of operations;
- (b) the storage or use of captured carbon for enhanced oil recovery; and
- (c) any other storage or use that is not an eligible use. (*utilisation non admissible*)

non-government assistance has the same meaning as in subsection 127(9). (*aide non gouvernementale*)

preliminary CCUS work activity means an activity that is preliminary to the acquisition, construction, fabrication or installation by or on behalf of a taxpayer of property described in Class 57 or 58 in respect of the taxpayer's CCUS project including, without limiting the generality of the foregoing, the following activities:

- (a) obtaining permits or regulatory approvals;

(b) performing design or engineering work, including front-end engineering design studies (or equivalent studies as determined by the Minister of Natural Resources);

(c) conducting feasibility studies or pre-feasibility studies (or equivalent studies as determined by the Minister of Natural Resources);

(d) conducting environmental assessments; and

(e) clearing or excavating land. (*travaux préliminaires de CUSC*)

project plan means a plan for a CCUS project that

(a) reflects a front-end engineering design study (or an equivalent study as determined by the Minister of Natural Resources) for the CCUS project;

(b) describes the quantity of captured carbon that the CCUS project is expected to support for storage or use in each calendar year over its total CCUS project review period, in

(i) eligible use, and

(ii) ineligible use;

(c) contains information required in guidelines published by the Minister of Natural Resources; and

(d) is filed with the Minister of Natural Resources, in the form and manner determined by that Minister, before the project's first day of commercial operations. (*plan de projet*)

projected eligible use percentage in respect of a CCUS project for a period is the amount, expressed as a percentage, determined by the formula

$$A \div B$$

where

A is the quantity of captured carbon that the CCUS project is expected, based on the project's most recent project plan, to support for storage or use in eligible use during the period; and

B is the total quantity of captured carbon that the CCUS project is expected, based on the project's most recent project plan, to support for storage or use in both eligible use and ineligible use during the period. (*pourcentage d'utilisation admissible prévu*)

qualified CCUS expenditure means a

(a) qualified carbon capture expenditure;

(b) qualified carbon transportation expenditure;

(c) qualified carbon storage expenditure; or

(d) qualified carbon use expenditure. (*dépense de CUSC admissible*)

qualified CCUS project means a CCUS project of a taxpayer that meets the following conditions:

(a) it is expected, based on the project's most recent project plan, to support the capture of carbon dioxide in Canada;

(b) an initial project evaluation has been issued by the Minister of Natural Resources, in the form and manner determined by the Minister of Natural Resources, in respect of the project;

(c) based on the most recent project plan for the project, its projected eligible use percentage equals or exceeds 10% in each of the following periods:

(i) if the first project period begins after September of a calendar year, the period beginning on the first day of commercial operations and ending on December 31 of the following calendar year, and

(ii) each calendar year of the project's total CCUS project review period, other than a period that includes a year referred to in subparagraph (i); and

(d) it is not a project that is

(i) operated to service a unit (as defined under the *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations*) for which the commissioning date (as defined under the *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations*) was on or before April 7, 2022, and

(ii) undertaken for the purpose of complying with emission standards that apply, or will apply, under the *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations*. (*projet de CUSC admissible*)

qualified carbon capture expenditure of a taxpayer for a taxation year means an amount that is the portion of an expenditure incurred by the taxpayer to acquire a property in the year in respect of a qualified CCUS project of the taxpayer, determined by the formula

$$A \times (B + C + D + E) \times F$$

where

A is, in respect of property acquired by the taxpayer in the year (other than property situated outside of Canada), the total of

(a) the capital cost of property described in (and, in the case of property acquired before the first day of commercial operations of the project, verified by the Minister of Natural Resources as being property described in)

(i) paragraph (a) of Class 57 in Schedule II to the *Income Tax Regulations*, or

(ii) paragraph (d), (e) or (f) of Class 57 in relation to equipment described in paragraph (a) of Class 57, and

(b) the proportion of the capital cost of dual use equipment that,

(i) if the equipment is described in clause (a)(ii)(A) of the definition *dual use equipment*, or is acquired in relation to such equipment, the mass of water expected to be delivered for re-use in a CCUS process over the project's total CCUS project review period is of the total mass of water expected to be collected and treated by the water recovery and recirculation equipment in that period, based on the project's most recent project plan, or

(ii) if the equipment is described in clause (a)(ii)(B) of the definition *dual use equipment*, or is acquired in relation to such equipment, the amount of its energy production expected to be used in the project over the project's total CCUS project review period is of the total amount of energy expected to be produced by the equipment in that period (determined without regard to energy produced and consumed by the equipment in the process of producing energy), based on the project's most recent project plan,

B is

(a) if the time of the expenditure is after the first project period, nil, or

(b) in any other case, the projected eligible use percentage for the first project period,

C is

(a) if the time of the expenditure is after the second project period, nil, or

(b) in any other case, the projected eligible use percentage for the second project period,

D is

(a) if the time of the expenditure is after the third project period, nil, or

(b) in any other case, the projected eligible use percentage for the third project period,

E is the projected eligible use percentage for the fourth project period, and

F is

(a) if the time of the expenditure is before the second project period, 0.25,

(b) if the time of the expenditure is during the second project period, 0.33,

(c) if the time of the expenditure is during the third project period, 0.5, and

(d) if the time of the expenditure is during the fourth project period, 1. (*dépense admissible pour le captage du carbone*)

qualified carbon storage expenditure of a taxpayer for a taxation year means an amount that is the capital cost incurred by the taxpayer to acquire in the year, in respect of a qualified CCUS project of the taxpayer, a property (other than property situated outside of Canada) that is

(a) expected, based on the qualified CCUS project's most recent project plan before the time the expenditure is incurred, to support storage of captured carbon solely in a manner described in paragraph (a) of the definition of *eligible use*; and

(b) described in (and, in the case of property acquired before the first day of commercial operations of the project, verified by the Minister of Natural Resources as being property described in)

(i) paragraph (c) of Class 57 in Schedule II to the *Income Tax Regulations*, or

(ii) paragraph (d), (e) or (f) of Class 57 in relation to equipment described in paragraph (c) of Class 57. (*dépense admissible pour le stockage du carbone*)

qualified carbon transportation expenditure of a taxpayer for a taxation year means an amount that is the portion of an expenditure incurred by the taxpayer to acquire a property in the year in respect of a qualified CCUS project of the taxpayer, determined by the formula

$$A \times (B + C + D + E) \times F$$

where

A is, in respect of property acquired by the taxpayer in the year (other than property situated outside of Canada), the total of the capital cost of property described in (and, in the case of property acquired before the first day of commercial operations of the project, verified by the Minister of Natural Resources as being property described in)

(a) paragraph (b) of Class 57 in Schedule II to the *Income Tax Regulations*, or

(b) paragraph (d), (e) or (f) of Class 57 in relation to equipment described in paragraph (b) of Class 57, and,

B is

(a) if the time of the expenditure is after the first project period, nil, or

(b) in any other case, the projected eligible use percentage for the first project period,

C is

(a) if the time of the expenditure is after the second project period, nil, or

(b) in any other case, the projected eligible use percentage for the second project period,

D is

(a) if the time of the expenditure is after the third project period, nil, or

(b) in any other case, the projected eligible use percentage for the third project period,

E is the projected eligible use percentage for the fourth project period, and

F is

(a) if the time of the expenditure is before the second project period, 0.25,

- (b) if the time of the expenditure is during the second project period, 0.33,
- (c) if the time of the expenditure is during the third project period, 0.5, and
- (d) if the time of the expenditure is during the fourth project period, 1. (*dépense admissible pour le transport du carbone*)

qualified carbon use expenditure of a taxpayer for a taxation year means an amount that is the capital cost incurred by the taxpayer to acquire in the year, in respect of a qualified CCUS project of the taxpayer, a property (other than property situated outside of Canada) that is

- (a) described in (and, in the case of property acquired before the first day of commercial operations of the project, verified by the Minister of Natural Resources as being property described in) any of paragraphs (a) to (d) of Class 58 in Schedule II to the *Income Tax Regulations*; and
- (b) expected, based on the qualified CCUS project's most recent project plan before the time the expenditure is incurred, to support storage or use of captured carbon solely in a manner described in paragraph (b) of the definition of *eligible use*. (*dépense admissible pour l'utilisation du carbone*)

qualified concrete storage process means a process evaluated against the ISO 14034:2016 standard *Environmental management – Environmental technology verification* for which a validation statement confirming that at least 60% of the captured carbon that is injected into concrete is expected to be mineralized and permanently stored in the concrete has been issued by a professional or organization that

- (a) is accredited as a verification body, under ISO 14034:2016, *Environmental management – Environmental technology verification* and ISO/IEC 17020:2012, *Conformity assessment – Requirements for the operation of various types of bodies performing inspection*, by the Standards Council of Canada, the ANSI National Accreditation Board (U.S.) or any other accreditation organization that is a member of the International Accreditation Forum; and
- (b) meets the requirements of a third-party inspection body described in ISO/IEC 17020:2012, *Conformity assessment – Requirements for the operation of various types of bodies performing inspection*. (*processus de stockage dans le béton admissible*)

qualifying taxpayer means a taxable Canadian corporation. (*contribuable admissible*)

specified percentage means, in respect of a

- (a) qualified carbon capture expenditure if incurred to capture carbon
 - (i) directly from ambient air
 - (A) after 2021 and before 2031, 60%,
 - (B) after 2030 and before 2041, 30%, or
 - (C) after 2040, 0%,
 - (ii) other than directly from ambient air
 - (A) after 2021 and before 2031, 50%
 - (B) after 2030 and before 2041, 25% or
 - (C) after 2040, 0%; and
- (b) qualified carbon transportation expenditure, qualified carbon storage expenditure or qualified carbon use expenditure if incurred
 - (i) after 2021 and before 2031, 37 1/2%,

(ii) after 2030 and before 2041, 18 3/4%, or

(iii) after 2040, 0%. (*pourcentage déterminé*)

total CCUS project review period in respect of a CCUS project means the period beginning on the first day of commercial operations of the project and ending on the last day of the fourth project period. (*période totale d'examen du projet de CUSC*)

Tax credit

(2) Where a qualifying taxpayer files a prescribed form containing prescribed information on or before its filing-due date for a taxation year the taxpayer is deemed to have paid on its balance-due day for the year an amount on account of its tax payable under this Part for the year equal to the total of

(a) the amount, if any, by which the taxpayer's cumulative CCUS development tax credit for the year exceeds its cumulative CCUS development tax credit for the immediately preceding taxation year; and

(b) the taxpayer's CCUS refurbishment tax credit for the year.

Deemed deduction

(3) For the purposes of this section, paragraph 12(1)(t), subsection 13(7.1), the description of I in the definition *undepreciated capital cost* in subsection 13(21), subsections 53(2) and 96(2.1), section 127.45 and Part XII.7, the amount deemed under subsection (2) to have been paid by a taxpayer for a taxation year is deemed to have been deducted from the taxpayer's tax otherwise payable under this Part for the year.

Cumulative CCUS development tax credit

(4) For the purposes of this Act, a taxpayer's cumulative CCUS development tax credit for a taxation year is the total of all amounts, each of which is, in respect of an expenditure incurred for a qualified CCUS project of the taxpayer before the first day of commercial operations of the CCUS project, a qualified CCUS expenditure incurred in the year or a previous taxation year by the taxpayer multiplied by the applicable specified percentage.

CCUS refurbishment tax credit

(5) For the purposes of this Act, a CCUS refurbishment tax credit of a taxpayer for a taxation year is the total of all amounts, each of which is, in respect of an expenditure incurred for a qualified CCUS project of the taxpayer in the year and during the total CCUS project review period, a qualified CCUS expenditure incurred in the year by the taxpayer multiplied by the applicable specified percentage.

Changes to project or eligible use

(6) At any time before the first day of commercial operations of a project, a taxpayer with a qualified CCUS project shall file, within 90 days from the occurrence of either of the events described in paragraphs (a) and (b), a revised project plan for the project with the Minister of Natural Resources, in the form and manner determined by the Minister of Natural Resources, if

(a) the Minister of Natural Resources requests that the taxpayer file a revised project plan for the project; or

(b) there has been a reduction (as compared to the most recent project plan for the project) of more than 5 percentage points in the quantity of captured carbon that the project is expected to support for storage or use in eligible use during any project period.

Qualified CCUS project determination

(7) For the purposes of this section and Part XII.7,

(a) the Minister may, in consultation with the Minister of Natural Resources, determine that one or more CCUS projects is one project or multiple projects;

(b) any determination under paragraph (a) is deemed to result in the CCUS project or CCUS projects, as the case may be, being one project or multiple projects, as the case may be;

(c) for each project determined under paragraph (a), a project plan shall be filed by a taxpayer with the Minister of Natural Resources (in the form and manner determined by the Minister of Natural Resources) with all due dispatch; and

(d) the Minister of Natural Resources may request from a taxpayer all reasonable documentation and information necessary for the Minister of Natural Resources to fulfill a responsibility under this section, including final detailed engineering designs, and may refuse to verify an expenditure or issue an initial project evaluation under this section if such documentation or information is not provided by the taxpayer in a timely manner.

Special rules — adjustments

(8) For the purposes of this section and Part XII.7,

(a) the capital cost to a taxpayer of a property of Class 57 or 58 shall be

(i) determined without reference to subsections 13(7.1) and (7.4), and

(ii) reduced by the amount of any non-government assistance that, at the time of the filing of the taxpayer's return of income under this Part for the taxation year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive in respect of the property;

(b) the amount of a qualified CCUS expenditure of a taxpayer in a taxation year in respect of a CCUS project shall not include

(i) any amount in respect of an expenditure incurred by the taxpayer before 2022 or after 2040,

(ii) any amount in respect of any expenditure incurred

(A) to acquire property that has been used for any purpose by any person or partnership before it was acquired by the taxpayer,

(B) for which a tax credit was previously deducted under this section, by any person in respect of the property to which the expenditure relates, or

(C) for which a clean technology credit is claimed under section 127.45,

(iii) any amount in respect of an expenditure incurred for a preliminary CCUS work activity,

(iv) any amount that has, by virtue of section 21, been added to the cost of a property,

(v) an expenditure that is incurred by a taxpayer on or after the first day of commercial operations of the CCUS project to the extent that the total of all such amounts exceeds 10% of the total of all qualified CCUS expenditures incurred by the taxpayer before the first day of commercial operations of the CCUS project, or

(vi) except where subsection 211.92(11) applies, an expenditure incurred by a taxpayer to acquire a property that is disposed of, or exported from Canada, by the taxpayer in the same taxation year as it was acquired;

(c) except for the purposes of subparagraph (b)(i), and subject to subsection (12), if a taxpayer has acquired property outside Canada, the expenditure is deemed to have been incurred, and the property acquired, at the time it is imported into Canada;

(d) subsections 127(11.6) to (11.8) apply in this section in respect of an expenditure or cost to a taxpayer except that

(i) the reference in subsection 127(11.6) to subsection 127(11.5) shall be read as a reference to section 127.44,

(ii) the reference in subsection 127(11.6) to subsection 127(26) shall be read as a reference to subsection 127.44(12), and

(iii) the term “qualified expenditure” is to be read as “qualified CCUS expenditure”;

(e) a process that the Minister, on the recommendation of the Minister of Natural Resources, determines does not constitute a carbon capture, utilization and storage process, is deemed not to be a CCUS process;

(f) for the purpose of determining whether a process is a CCUS process or whether a property is described in Class 57 or 58 of Schedule II to the *Income Tax Regulations*, any technical guide published by the Department of Natural Resources shall apply conclusively with respect to engineering and scientific matters; and

(g) if the taxpayer has failed to file a revised project plan required to be filed under subsection (6) by the deadline in that subsection,

(i) subject to subparagraph (ii), a taxpayer’s projected eligible use percentage for a CCUS project is deemed to be nil for the total CCUS project review period, until such time as the taxpayer has filed the revised project plan, and

(ii) once the taxpayer has filed the revised project plan, subparagraph (i) is deemed never to have applied.

Repayment of assistance

(9) Where a taxpayer has, in a particular taxation year, repaid (or has not received and can no longer reasonably be expected to receive) an amount of non-government assistance that was applied to reduce the capital cost of a property under subparagraph (8)(a)(ii) for a preceding taxation year, the amount repaid (or no longer expected to be received) shall be added to the capital cost to the taxpayer of a property acquired for the purpose of determining the taxpayer’s *qualified CCUS expenditure* (under the relevant paragraph of that definition) for the particular year.

Partnerships

(10) Where, in a particular taxation year of a qualifying taxpayer who is a member of a partnership, an amount would be determined under subsection (2) in respect of the partnership, for its taxation year that ends in the particular year, if the partnership were a taxable Canadian corporation, the portion of that amount that can reasonably be considered to be the taxpayer’s share thereof shall be added in computing the tax credit of the taxpayer under subsection (2) at the end of the particular year.

Limited partners

(11) Subsections 127(8.1) to (8.5) apply to the determination of the amount of a tax credit under subsection (2) of a taxpayer who is a member of a partnership, with the references therein to subsection 127(8) to be read as references to subsection 127.44(10) and with such other modifications as the circumstances require.

Unpaid amounts

(12) For the purposes of this section, a taxpayer’s expenditure that is unpaid on the day that is 180 days after the end of the taxation year in which the expenditure is otherwise incurred is deemed

(a) not to have been incurred in the year; and

(b) to be incurred at the time it is paid.

Designation of jurisdiction

(13) If the Minister of the Environment determines that a jurisdiction within Canada or the United States has sufficient environmental laws and enforcement governing the permanent storage of captured carbon, the following rules apply:

(a) the Minister of the Environment may designate the jurisdiction for the purposes of this section and Part XII.7;

(b) the designation under paragraph (a) shall specify the time at and after which it is in effect, which time may, for greater certainty, precede the time at which the designation is made;

(c) the Minister of the Environment shall publish on an internet website maintained by the Government of Canada the designation referred to in paragraph (a); and

(d) the provinces of Alberta, British Columbia and Saskatchewan are deemed to have been designated by the Minister of the Environment in accordance with this subsection.

Revocation of designation

(14) If a jurisdiction makes significant changes to its environmental laws or enforcement governing the permanent storage of captured carbon, and the Minister of the Environment determines that as a result of those changes a jurisdiction designated pursuant to subsection (13) has ceased to have sufficient environmental laws or enforcement governing the permanent storage of captured carbon, the following rules apply

(a) the Minister of the Environment may revoke the designation of the jurisdiction designated under subsection (13);

(b) the revocation under paragraph (a) shall specify the time at and after which it is in effect, which time shall not begin sooner than 30 days after the revocation is made; and

(c) the Minister of the Environment shall publish on an internet website maintained by the Government of Canada the revocation referred to in paragraph (a).

Purpose

(15) The purpose of this section and Part XII.7 is to encourage the investment of capital in the development and operation of carbon capture, transportation, utilization and storage capacity in Canada.

Tax shelter investment

(16) Subsections (2) and (3) do not apply in respect of a CCUS project if a property used in the project — or an interest in a person or partnership that has, directly or indirectly, an interest in, or for civil law, a right in, a property used in the project — is a tax shelter investment for the purpose of section 143.2.

Late filing

(17) The Minister may accept the late filing by a qualifying taxpayer of the prescribed form referred to in subsection (2) until one year after the filing-due date referred to in subsection (2), but no overpayment by the taxpayer is deemed to arise under that subsection until the form has been filed with the Minister.

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

2 (1) The Act is amended by adding the following after section 211.91:

PART XII.7

Carbon Capture, Utilization and Storage

Definitions

211.92 (1) The definitions in subsection 127.44(1) also apply in this Part. The following definitions apply in this Part and in section 127.44.

actual eligible use percentage in respect of a CCUS project for a period is the amount, expressed as a percentage, determined by the formula

$$A \div B$$

where

A is the quantity of captured carbon that the CCUS project supported for storage or use in eligible use during the period, and

B is the total quantity of captured carbon that the CCUS project supported for storage or use in both eligible use and ineligible use during the period. (*pourcentage réel d'utilisation admissible*)

exempt corporation at any time, means a corporation that does not have an ownership interest, whether directly or indirectly, in a qualified CCUS project that has incurred expenditures, or is expected to incur expenditures (based on the most recent project evaluation issued by the Minister of Natural Resources for the project), of \$20 million or more. (*société exonérée*)

first project period in respect of a CCUS project, means the period that begins on the first day of commercial operations — or, if the project has not yet commenced operations, the day on which, according to the most recent project plan, operations are expected to begin — and ends

(a) if that day is before October of a calendar year, on December 31 of the calendar year that includes the fourth anniversary of that day; or

(b) if that day is after September of a calendar year, on December 31 of the calendar year that includes the fifth anniversary of that day. (*première période du projet*)

first recovery taxation year in respect of a project period of a CCUS project means the taxation year that includes the last day of the first project period. (*première année d'imposition de recouvrement*)

fourth project period in respect of a CCUS project, means the five calendar years following the end of the third project period. (*quatrième période du projet*)

fourth recovery taxation year in respect of a project period of a CCUS project means the taxation year that includes the last day of the fourth project period. (*quatrième année d'imposition de recouvrement*)

knowledge sharing CCUS project means a qualified CCUS project that

(a) is expected to incur qualified CCUS expenditures of \$250 million or more based on the most recent project evaluation issued by the Minister of Natural Resources for the project; or

(b) has incurred \$250 million or more of qualified CCUS expenditures before the first day of commercial operations of the project. (*projet de CUSC requérant l'échange de connaissances*)

knowledge sharing report means, in respect of a CCUS project,

(a) an annual operations knowledge sharing report containing the information described by the Minister of Natural Resources in the *CCUS-ITC Technical Guidance Document* as published by the Minister of Natural Resources and amended from time to time, in the form annexed to the *CCUS-ITC Technical Guidance Document*; and

(b) the construction and completion knowledge sharing report containing the information described in the *CCUS-ITC Technical Guidance Document* referred to in paragraph (a). (*rapport sur l'échange de connaissances*)

knowledge sharing taxpayer means a taxpayer that claimed a CCUS tax credit for a taxation year ending before the first day of commercial operations of a knowledge sharing CCUS project. (*contribuable échangeant des connaissances*)

project period in respect of a CCUS project, means any of the first project period, the second project period, the third project period and the fourth project period. (*période de projet*)

recovery taxation year in respect of a CCUS project, means any of the first recovery taxation year, the second recovery taxation year, the third recovery taxation year and the fourth recovery taxation year. (*année d'imposition de recouvrement*)

relevant project period means

(a) in respect of the first recovery taxation year, the first project period;

- (b) in respect of the second recovery taxation year, the second project period;
- (c) in respect of the third recovery taxation year, the third project period; and
- (d) in respect of the fourth recovery taxation year, the fourth project period. (*période de projet pertinente*)

reporting-due day means

- (a) in respect of an annual climate risk disclosure report, the day that is nine months after the day on which the reporting taxation year for the report ends;
- (b) in respect of an annual operations knowledge sharing report,
 - (i) if the report is the first such report,
 - (A) where the first day of commercial operations is before October 1 in a calendar year, June 30 of the following calendar year, or
 - (B) where the first day of commercial operations is after September 30 in a calendar year, June 30 of the second calendar year after the calendar year which includes the first day of commercial operations; and
 - (ii) if the report is not the first report, each June 30 of the first four calendar years immediately following the calendar year which includes the June 30 referred to in subparagraph (i); and
- (c) in respect of the construction and completion knowledge sharing report, the last day of the sixth month beginning after the first day of commercial operations. (*date d'échéance du rapport*)

reporting period means,

- (a) in respect of the construction and completion knowledge sharing report, the period that begins on the first day an expenditure for a qualified CCUS project is incurred and ends on the first day of commercial operations of the knowledge sharing CCUS project; and
- (b) in respect of an annual operations knowledge sharing report, each period that begins on the first day of commercial operations and ends on the last day of the calendar year ending immediately before the reporting-due day for the annual operations knowledge sharing report. (*période de déclaration*)

reporting taxation year means,

- (a) the first taxation year of a taxpayer in which a CCUS tax credit was deducted, in respect of a CCUS project of the taxpayer; and
- (b) each taxation year that
 - (i) begins after a taxation year referred to in paragraph (a), and
 - (ii) ends before the twenty-first calendar year after the end of the taxation year which includes the first day of commercial operations of the CCUS project. (*année d'imposition de la déclaration*)

second project period in respect of a CCUS project, means the five calendar years following the end of the first project period. (*deuxième période du projet*)

second recovery taxation year in respect of a project period of a CCUS project means the taxation year that includes the last day of the second project period. (*deuxième année d'imposition de recouvrement*)

third project period in respect of a CCUS project, means the five calendar years following the end of the second project period. (*troisième période du projet*)

third recovery taxation year in respect of a project period of a CCUS project means the taxation year that includes the last day of the third project period. (*troisième année d'imposition de recouvrement*)

Recovery of development tax credit

(2) A taxpayer shall pay a tax under this Part, for a particular taxation year that includes the first day of commercial operations of a CCUS project, or for any preceding year, equal to the amount, if any, by which the taxpayer's cumulative CCUS development tax credit for the immediately preceding taxation year exceeds its cumulative CCUS development tax credit for the particular taxation year.

Acceleration of recovery tax

(3) If the actual eligible use percentage for a CCUS project for any period described in subparagraph (c)(i) or (ii) of the definition *qualified CCUS project* in subsection 127.44(1) is less than 10%, then for the purposes of applying subsections (4) and (5)

(a) the actual eligible use percentage of the project for the relevant project period to which the period relates, and for each subsequent project period, is deemed to be nil;

(b) the relevant project period for the particular recovery taxation year is deemed to include each subsequent project period; and

(c) those subsections do not apply to a subsequent recovery taxation year in respect of the project.

Development credits recovery amount

(4) If the projected eligible use percentage of a CCUS project for the relevant project period in respect of a particular recovery taxation year exceeds the actual eligible use percentage of the CCUS project for that period by more than five percentage points, there shall be added to the tax otherwise payable under this Part for the particular recovery taxation year by a taxpayer that deducted a CCUS tax credit in respect of the CCUS project an amount equal to the amount determined by the formula:

$$A - B - C$$

where

A is the amount of the taxpayer's cumulative CCUS development tax credit for the taxation year that includes the first day of commercial operations,

B is the amount that would be determined for A if the projected eligible use percentage for the relevant project period were equal to its actual eligible use percentage, and

C is the total of all amounts, each of which is an amount previously paid by the taxpayer as a tax under this Part in respect of the disposition or export of a property in relation to the project because of subsection (9), to the extent that the amount did not reduce the tax payable by the taxpayer under this subsection in a preceding taxation year.

Refurbishment credits recovery amount

(5) If the projected eligible use percentage of a CCUS project for the relevant project period in respect of a particular recovery taxation year exceeds the actual eligible use percentage of the CCUS project for that period by more than five percentage points, there shall be added to the tax otherwise payable under this Part for the particular recovery taxation year by a taxpayer that deducted a CCUS tax credit in respect of the CCUS project, an amount equal to the amount determined by the formula:

$$A - B - C$$

where

A is the total of all amounts, each of which is the amount that is the taxpayer's CCUS refurbishment tax credit under subsection 127.44(5) for the year or a previous taxation year,

B is the amount that would be determined for A if the projected eligible use percentage for the relevant project period were equal to its actual eligible use percentage, and

C is the total of all amounts, each of which is an amount previously paid by the taxpayer as a tax under this Part in respect of the disposition or export of a property in relation to the project because of subsection (10), to the extent that the amount did not reduce the tax payable by the taxpayer under this subsection in a preceding taxation year.

Extraordinary eligible use reduction

(6) For the purposes of determining a taxpayer's liability for tax under this Part for a taxation year, subsection (7) applies if

(a) the actual eligible use percentage for a qualified CCUS project during a project period is significantly reduced due to extraordinary circumstances, for bona fide reasons outside the control of the taxpayer and each person or partnership that does not deal at arm's length with the taxpayer;

(b) the taxpayer requests in writing, on or before the taxpayer's filing-due date for the year, that the Minister consider the potential application of this subsection and subsection (7); and

(c) the Minister is satisfied that the taxpayer has taken all reasonable steps to attempt to rectify the extraordinary circumstances, and that it is appropriate, having regard to all the circumstances, to apply this subsection and subsection (7).

Effect of extraordinary circumstances

(7) Where the conditions in subsection (6) are met for a taxation year,

(a) if the qualified CCUS project's operations are affected by extraordinary circumstances for all or substantially all of the project period, then no amount is payable by the taxpayer for the year under subsections (3) to (5) in respect of the project; and

(b) in any other case, the portion of the project period during which the project's operations are affected by the extraordinary circumstances shall be disregarded for the purpose of calculating the actual eligible use percentage for the project period.

Shutdown

(8) For the purposes of determining a taxpayer's liability for tax under this Part for a recovery taxation year, where a qualified CCUS project is inoperative for all or a portion of a relevant project period,

(a) if the project is inoperative for all or substantially all of the period, then no amount is payable by the taxpayer for the year under subsections (3) to (5) in respect of the project; and

(b) in any other case, the portion of the project period during which the project is inoperative shall be disregarded for the purpose of calculating the actual eligible use percentage for the project period.

Development property disposition

(9) Except where subsection (11) applies, if at any time in a particular taxation year a taxpayer disposes of or exports from Canada a property for which the taxpayer's qualified CCUS expenditure resulted in the determination of a cumulative CCUS development tax credit for a previous taxation year, or would so result for the particular year but for this subsection, the following rules apply:

(a) if the time is before the total CCUS project review period of the CCUS project to which the expenditure relates, the expenditure is deemed not to be a qualified CCUS expenditure in respect of the CCUS project for the purpose of determining the taxpayer's cumulative CCUS development tax credit for the particular year and any subsequent taxation years;

(b) if the time is during the total CCUS project review period of the CCUS project to which the expenditure relates, there shall be added to the tax otherwise payable by the taxpayer under this Part for the year the amount determined by the formula

$$A \times B \times C \div D - E$$

where

- A** is the qualified CCUS expenditure in respect of the property as determined for the taxation year that includes the first day of commercial operations,
- B** is the appropriate specified percentage,
- C** is the amount, not exceeding the value for D, equal to
 - (a)** if the property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of the property, or
 - (b)** if the property is disposed of to a person who does not deal at arm's length with the taxpayer, or is exported from Canada but not disposed of, the fair market value of the property at that time,
- D** is the taxpayer's capital cost of the property, and
- E** is the total of all amounts, each of which can reasonably be considered to be the portion of any amount previously paid by the taxpayer because of subsection (4) in respect of the property, to the extent that the amount did not reduce the tax payable by the taxpayer under this subsection in a preceding taxation year.

Refurbishment property disposition

(10) Except where subsection (11) applies, if at any time in a particular taxation year during the total project review period of a CCUS project a taxpayer disposes of or removes from Canada a property for which the taxpayer's qualified CCUS expenditure resulted in the determination of a CCUS refurbishment tax credit for the year or a previous taxation year, then there shall be added to the tax otherwise payable by the taxpayer under this Part for the year the amount determined by the formula:

$$A \times B \times C \div D - E$$

where

- A** is the qualified CCUS expenditure in respect of the property,
- B** is the appropriate specified percentage,
- C** is the amount, not exceeding the value for D, equal to
 - (a)** if the property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of the property, or
 - (b)** if the property is disposed of to a person who does not deal at arm's length with the taxpayer, or is exported from Canada, the fair market value of the property,
- D** is the taxpayer's capital cost of the property, and
- E** is the total of all amounts, each of which can reasonably be considered to be the portion of any amount previously paid by the taxpayer because of subsection (5) in respect of the property, to the extent that the amount did not reduce the tax payable by the taxpayer under this subsection in a preceding taxation year.

Election — CCUS project sale

(11) If at any time a qualifying taxpayer (referred to in this subsection as the "vendor") disposes of all or substantially all of its property that is part of a qualified CCUS project of the taxpayer to another taxable Canadian corporation (referred to in this subsection as the "purchaser") and the vendor and the purchaser jointly elect in prescribed form to have this subsection apply, the following rules apply:

- (a)** the purchaser is deemed to have made the qualifying expenditures of the vendor at the times incurred by the vendor;
- (b)** the provisions of this Act that applied to the vendor in respect of the property that are relevant to the application of the Act in respect of the property after that time are deemed to have applied to the purchaser and, for greater certainty, the purchaser is deemed to have claimed the tax credits determined under section 127.44 that could have been claimed by the vendor, before that time, in respect of the CCUS project;

(c) any project plans that were prepared or filed by the vendor in respect of the CCUS project before that time are deemed to have been filed by the purchaser;

(d) the purchaser is or will be liable for amounts in respect of the property for which the vendor would be liable under this Part in respect of actions, transactions or events that occur after that time as if the vendor had undertaken them or otherwise participated in them; and

(e) subsections (9) and (10) do not apply to the vendor in respect of the disposition of property to the purchaser.

Partnerships

(12) Where subsection 127.44(10) has at any time applied to add an amount in computing the CCUS tax credit of a member of the partnership, then for the purposes of this Part, subsections (2) to (11) shall apply to determine amounts in respect of the partnership as if the partnership were a taxable Canadian corporation and it had claimed all of the CCUS tax credits that were previously deducted by any member of the partnership under subsection 127.44(2) because of its partnership interest.

Member's share of tax

(13) Unless subsection (14) applies, if, in a taxation year, a person is a member of a partnership, the amount that can reasonably be considered to be the member's share of any amount of tax determined because of subsection (12) in respect of the partnership shall be added to the member's tax otherwise payable under this Part for the year.

Election by member to pay tax

(14) Any member of a partnership that is a taxable Canadian corporation may elect in prescribed form and manner to add to its tax payable under this Part for the year the total amount of tax determined for a taxation year because of subsection (12) in respect of the partnership.

Joint, several and solidary liability

(15) Each member of a partnership is jointly and severally, or for civil law, solidarily, liable for any portion of the amount of tax – determined because of subsection (12) in respect of the partnership for a taxation year – that is not added to the tax payable

(a) of a member of the partnership under subsection (13); or

(b) of a taxable Canadian corporation because of subsection (14) and paid by the corporation by its filing-due date for the year.

Reporting requirements

211.93 (1) A knowledge sharing taxpayer

(a) shall submit in respect of each reporting period a knowledge sharing report to the Minister of Natural Resources on or before the reporting-due day for the report; and

(b) if the taxpayer is not an exempt corporation, shall on or before the reporting-due day for each reporting taxation year, make available to the public, in prescribed manner, a climate risk disclosure report for the year that

(i) describes the climate-related risks and opportunities for the corporation based on the following thematic areas:

(A) the corporation's governance in respect of climate-related risks and opportunities,

(B) the actual and potential impacts of climate-related risks and opportunities on the corporation's businesses, strategy and financial planning, where such information is material,

(C) the processes used by the corporation to identify, assess and manage climate related risks, and

(D) the metrics and targets used by the corporation to assess and manage relevant climate-related risks and opportunities, and

(ii) explains how the corporation's governance, strategies, policies and practices contribute to achieving Canada's

(A) commitments under the Paris Agreement made on December 12, 2015, and

(B) goal of net-zero emissions by 2050.

Publication

(2) For the purposes of subsection (1), a climate risk disclosure report is deemed to have been made public in a prescribed manner if the report includes the date it was published and is made publicly available by, or on behalf of, the corporation on its internet website for a period of at least three years after the reporting-due day.

Shared filing

(3) If a person is required by subsection (1) to submit a knowledge sharing report in respect of a CCUS knowledge sharing project, the submission with full and accurate disclosure by any such person of the report is deemed to have been made by each person to whom subsection (1) applies in respect of the report.

Penalty – non-compliance with reporting requirements

(4) Every knowledge sharing taxpayer that fails to provide the knowledge sharing report required under paragraph (1)(a) in respect of a reporting period is liable to a penalty in the amount of \$2 million payable the day after the reporting-due day.

Failure to disclose

(5) Every knowledge sharing taxpayer that fails to make available the climate risk disclosure report as required under paragraph (1)(b) in respect of a reporting taxation year is liable to a penalty in the amount that is the lesser of

(a) 4% of the total of all amounts, each of which is the amount of a CCUS tax credit of the corporation in respect of each taxation year that ended before the reporting-due day for the reporting taxation year; and

(b) \$1 million.

Report disclosure

(6) The Department of Natural Resources shall publish on an internet website, maintained by the Government of Canada, each knowledge sharing report referred to in subsection (1) as soon as practicable after a taxpayer has submitted the report.

Eligible use reporting

(7) If a CCUS tax credit was deducted for a taxation year by a taxpayer in respect of a CCUS project that began commercial operations in the year or a prior taxation year, the actual eligible use percentage for a relevant project period in respect of the CCUS project is deemed to be nil until the taxpayer has filed in prescribed form, with each of its returns of income for taxation years that include any part of the relevant project period, a report stating

(a) the actual amount of carbon captured, during the calendar year ending in the taxation year, for storage or use in eligible use; and

(b) the total quantity of captured carbon during that calendar year that supported storage or use in both eligible use and ineligible use.

Administration

211.94 Subsection 150(2) and (3), sections 152, 158, 159 and 161 to 167 and Division J of Part I apply to this Part, with such modification as the circumstances require, except that, in the application of subsection 161(1) to an amount of tax

payable under section 211.92, the balance-due day of a taxpayer in respect of a recovery taxation year is deemed to be the balance-due day of the taxation year for the related CCUS tax credit under subsection 127.44(2).

Records and books

211.95 Every person required by section 230 to keep records and books of account on behalf of a taxpayer shall retain all records and books of account referred to in that section as are necessary to verify information regarding CCUS tax credits of the taxpayer under section 127.44 or amounts payable by the taxpayer under this Part, in respect of a CCUS project, until the expiration of the later of

(a) the period referred to in paragraph 230(4)(b); and

(b) 26 years from end of the taxpayer's last taxation year for which an amount was deemed to have been paid under subsection 127.44(2) by reason of its paragraph (a).

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

3 Subsection 225.1(1.1) of the Act is amended by striking out “and” at the end of paragraph (b) and by adding the following after paragraph (b):

(b.1) in the case of an amount payable under subsection 211.92(2) to (5), in respect of the day on which the notice of assessment is sent,

(i) for one-fifth of the amount, one year after that day,

(ii) for two-fifths of the amount, two years after that day,

(iii) for three-fifths of the amount, three years after that day,

(iv) for four-fifths of the amount, four years after that day, and

(v) for the entire amount, five years after that day; and

Income Tax Regulations

4 (1) Paragraph 1100(1)(a) of the *Income Tax Regulations* is amended by striking out “and” at the end of subparagraph (xli) and by adding the following after subparagraph (xlii):

(xliii) of Class 57, 8 per cent,

(xliv) of Class 58, 20 per cent,

(xlv) of Class 59, 100 per cent, and

(xlvi) of Class 60, 30 per cent,

(2) Paragraph (a) of the description of A in subsection 1100(2) of the Regulations is replaced by the following:

(a) if the property is not included in paragraph (1)(v) or in any of Classes 12, 13, 14, 15, 43.1, 43.2, 53, 54, 55, 56, 59 or in Class 43 in the circumstances described in paragraph (d),

(3) Subsections (1) and (2) apply to property acquired after 2021.

5 (1) The portion of Class 8 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 8

(20 per cent)

Property not included in Class 1, 2, 7, 9, 11, 17, 30, 57 or 58 that is

(2) The portion of Class 17 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 17

(8 per cent)

Property that would otherwise be included in another class in this Schedule (other than property included in Class 57 or 58) that is

(3) The portion of Class 41 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 41

(25 per cent)

Property (other than property included in Class 41.1, 41.2, 57 or 58)

(4) The portion of Class 41.1 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 41.1

(25 per cent)

Oil sands property (other than specified oil sands property or property included in Class 57 or 58)

(5) The portion of Class 41.2 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 41.2

(25 per cent)

Property, other than specified oil sands property, eligible mine development property or property included in Class 57 or 58,

(6) The portion of Class 43 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 43

(30 per cent)

Property acquired after February 25, 1992 (other than property included in Class 57 or 58),

(7) The portion of Class 49 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 49

(8 per cent)

Property (other than property included in Class 57 or 58) that is a pipeline, including control and monitoring devices, valves and other equipment ancillary to the pipeline, that

(8) The portion of Class 53 in Schedule II to the Regulations that is before paragraph (a) is replaced by the following:

CLASS 53

Property acquired after 2015 and before 2026 (other than property included in Class 57 or 58) that is not included in Class 29, but that would otherwise be included in that class if

(9) Schedule II to the Regulations is amended by adding the following after Class 56:

CLASS 57

(8 per cent)

Property that is part of a CCUS project of a taxpayer and that is

- (a)** equipment that is not required for hydrogen production, natural gas processing or acid gas injection and that
 - (i)** is not oxygen production equipment and is to be used solely for capturing carbon dioxide
 - (A)** that would otherwise be released into the atmosphere, or
 - (B)** directly from the ambient air,
 - (ii)** prepares or compresses captured carbon for transportation,
 - (iii)** produces power, heat or a combination of power and heat, that solely supports a CCUS process, unless the equipment uses fossil fuels and emits carbon dioxide that is not subject to capture by a CCUS process, or
 - (iv)** collects, recovers, treats or recirculates water, or a combination of any of those activities, that solely supports a CCUS process;
- (b)** equipment that is to be used solely for transportation of captured carbon;
- (c)** equipment that is to be used solely for storage of captured carbon in a geological formation (other than for enhanced oil recovery);
- (d)** monitoring and control equipment that is to be used solely to support the equipment described in paragraphs (a) to (c);
- (e)** a building or other structure all or substantially all of which is used, or to be used, for the installation or operation of equipment described in paragraphs (a) to (d); or
- (f)** property that is used solely to
 - (i)** convert another property that would not otherwise be described in any of paragraphs (a) to (e) if the conversion causes the other property to satisfy the description under any of paragraphs (a) to (e), or
 - (ii)** refurbish property described in any of paragraphs (a) to (e) that is part of a CCUS project of the taxpayer.

CLASS 58

(20 per cent)

Property that is part of a CCUS project of a taxpayer, and that is

- (a) equipment to be used solely for using carbon dioxide in industrial production (including for enhanced oil recovery);
- (b) monitoring and control equipment to be used solely to support the equipment included in paragraph (a);
- (c) a building or other structure all or substantially all of which is used, or to be used, for the installation or operation of equipment described in paragraph (a) or (b); or
- (d) property that is used solely to
 - (i) convert another property that would not otherwise be described in any of paragraphs (a) to (c) if the conversion causes the other property to satisfy the description under any of paragraphs (a) to (c), or
 - (ii) refurbish property described in any of paragraphs (a) to (c).

CLASS 59

(100 per cent)

Property (including property deemed to have been acquired under subsection 13(7.6) of the Act) not included in any other class, that is

- (a) acquired for the purpose of determining the existence, location, extent or quality of a geological formation to permanently store captured carbon (other than for enhanced oil recovery) in Canada, including property acquired as a result of undertaking environmental studies or community consultations (including studies or consultations that are undertaken to obtain a right, license or privilege for the purpose of determining the existence, location, extent or quality of a geological formation to permanently store captured carbon (other than for enhanced oil recovery)); and
- (b) not acquired for the purpose of drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well.

CLASS 60

(30 per cent)

Property (including property deemed to have been acquired under subsection 13(7.6) of the Act) not included in any other class that is

- (a) acquired for the purposes of
 - (i) drilling or converting a well in Canada for the permanent storage of captured carbon (other than for enhanced oil recovery),
 - (ii) drilling or completing a well for the permanent storage of captured carbon (other than for enhanced oil recovery) in Canada, building a temporary access road to the well or preparing a site in respect of the well,
 - (iii) drilling or converting a well in Canada for the purposes of monitoring pressure changes or other phenomena in a geological formation in which captured carbon is permanently stored (other than for enhanced oil recovery); or
- (b) a right, license or privilege
 - (i) for the purposes of determining the existence, location, extent or quality of a geological formation to permanently store captured carbon (other than for enhanced oil recovery), or
 - (ii) to permanently store captured carbon in dedicated geological storage.

(10) Subsections (1) to (9) are deemed to have come into force on January 1, 2022.

Clean Technology Investment Tax Credit

1 (1) The definition *government assistance* in subsection 127(9) of the Act is replaced by the following:

government assistance means assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance, other than as a deduction under subsection 127(5) or 127(6) or a deemed payment on account of tax payable under subsection 127.45(2); (*aide gouvernementale*)

(2) Subsection (1) is deemed to have come into force on March 28, 2023.

2 (1) The Act is amended by adding the following after section 127.44:

Definitions

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

clean technology investment tax credit of a qualifying taxpayer for a taxation year means the total of all amounts each of which is the specified percentage of the capital cost to the taxpayer of clean technology property acquired by the taxpayer in the year. (*crédit d'impôt à l'investissement dans les technologies propres*)

clean technology property means property

(a) situated in Canada and intended for use exclusively in Canada;

(b) that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer;

(c) that, if it is to be leased by the taxpayer to another person, is

(i) leased to a qualifying taxpayer, and

(ii) leased in the ordinary course of carrying on a business in Canada by the taxpayer whose principal business is selling or servicing property of that type, or whose principal business is leasing property, lending money, purchasing conditional sales contracts, accounts receivable, bills of sale, chattel mortgages or hypothecary claims on movables, bills of exchange or other obligations representing all or part of the sale price of merchandise or services, or any combination thereof; and

(d) that is

(i) equipment used to generate electricity from solar, wind and water energy that is described in subparagraph (d)(ii), (iii.1), (v), (vi) or (xiv) of Class 43.1 in Schedule II to the *Income Tax Regulations*,

(ii) stationary electricity storage equipment that is described in subparagraph (d)(xviii) or (xix) of Class 43.1 in Schedule II to the *Income Tax Regulations*, but excluding equipment that uses any fossil fuel in operation,

(iii) active solar heating equipment, air-source heat pumps and ground-source heat pumps that are described in subparagraph (d)(i) of Class 43.1 in Schedule II to the *Income Tax Regulations*,

(iv) a non-road zero-emission vehicle described in Class 56 in Schedule II to the *Income Tax Regulations* and charging or refuelling equipment described in subparagraph (d)(xxi) of Class 43.1 in Schedule II to the *Income Tax Regulations* or subparagraph (b)(ii) of Class 43.2 in Schedule II to the *Income Tax Regulations* that in each case is used primarily for such vehicles,

(v) equipment used exclusively for the purpose of generating electrical energy or heat energy, or a combination of electrical energy and heat energy, solely from geothermal energy, that is described in subparagraph (d)(vii) of Class

43.1 in Schedule II to the *Income Tax Regulations*, but excluding any equipment that is part of a system that extracts both heat from a geothermal fluid and fossil fuel for sale or use,

(vi) concentrated solar energy equipment, or

(vii) a small modular nuclear reactor. (*bien de technologie propre*)

concentrated solar energy equipment means equipment, other than excluded equipment, used all or substantially all to generate heat or electricity, or a combination of heat and electricity, exclusively from concentrated sunlight, including

(a) reflectors and related solar tracking systems;

(b) thermal receivers;

(c) thermal energy storage equipment;

(d) electrical generating equipment;

(e) heat transfer fluid systems;

(f) electrical energy storage equipment;

(g) transmission equipment;

(h) equipment for the distribution of heat energy;

(i) structures whose sole function is to support or house concentrated solar energy equipment; and

(j) ancillary instrumentation and controls including weather monitoring systems. (*matériel d'énergie solaire concentrée*)

excluded equipment means

(a) auxiliary heating or electrical generating equipment that uses any fossil fuel;

(b) buildings or structures other than those structures described in paragraph (i) of the definition of *concentrated solar energy equipment*;

(c) distribution equipment;

(d) property included in Class 10 in Schedule II to the *Income Tax Regulations*; and

(e) property that would be included in Class 17 in Schedule II to the *Income Tax Regulations* if that Class were read without reference to its paragraph (a.1). (*matériel non admissible*)

government assistance has the meaning assigned by subsection 127(9). (*aide gouvernementale*)

non-clean technology use means a use of a particular property at a particular time that would, if the property were acquired at that time, result in the property ceasing to be a *clean technology property*, determined without reference to paragraph (b) of that definition. (*utilisation non concernée par la technologie propre*)

non-government assistance has the meaning assigned by subsection 127(9). (*aide non gouvernementale*)

qualifying taxpayer means a taxable Canadian corporation. (*contribuable admissible*)

small modular nuclear reactor means equipment that is used all or substantially all to generate electrical energy or heat energy, or a combination of electrical energy and heat energy, from nuclear fission — including reactors, reactor vessels, reactor control rods, moderators, cooling systems, control systems, nuclear fission fuel handling equipment, containment structures, electrical generating equipment and equipment for the distribution of heat energy — that

(a) is part of a system that has a gross rated generating capacity not exceeding 300 megawatts electric, or an energy balance equivalent gross rated generating capacity of electricity or heat equivalent of 1,000 megawatts thermal;

(b) is part of a system all or substantially all of which is comprised of modules that are factory-assembled and transported pre-built to the installation site; and

(c) is not

(i) nuclear fission fuel,

(ii) equipment for nuclear waste disposal and nuclear waste disposal sites,

(iii) transmission equipment,

(iv) distribution equipment,

(v) property included in Class 10 in Schedule II to the *Income Tax Regulations*, or

(vi) property that would be included in Class 17 in Schedule II to the *Income Tax Regulations* if that Class were read without reference to its paragraph (a.1). (*petit réacteur modulaire nucléaire*)

specified percentage means in respect of a clean technology property of the taxpayer that is acquired

(a) before March 28, 2023, determined without reference to subsection (4), nil;

(b) on or after March 28, 2023 and before January 1, 2034, 30%;

(c) after December 31, 2033 and before January 1, 2035, 15%; and

(d) after December 31, 2034, nil. (*pourcentage déterminé*)

Clean technology investment tax credit

(2) If a qualifying taxpayer files with its return of income for a taxation year a prescribed form containing prescribed information, the taxpayer is deemed to have paid on its balance-due day for the year an amount on account of the taxpayer's tax payable under this Part for the year equal to the taxpayer's clean technology investment tax credit for the year.

Time limit for application

(3) A payment on account of tax payable shall not be deemed to be paid under subsection (2) if the taxpayer does not file with the Minister a prescribed form containing prescribed information in respect of the amount on or before the day that is one year after the taxpayer's filing-due date for the year.

Time of acquisition

(4) In applying subsection (2) and the definition of *clean technology investment tax credit* in subsection (1), clean technology property is deemed not to have been acquired by a taxpayer before the property is considered to have become available for use by the taxpayer, determined without reference to paragraphs 13(27)(c) and (28)(d).

Special rules — adjustments

(5) For the purpose of the definition of *clean technology investment tax credit* in subsection (1), the capital cost of clean technology property shall

(a) not include any amount in respect of a capital property;

(i) for which an amount was previously deducted under this section by any person,

(ii) in respect of which a CCUS tax credit was deducted under section 127.44 by any person, or

(iii) that has, by virtue of section 21, been added to the cost of a property;

(b) be determined without reference to subsections 13(7.1) and (7.4), less the amount of any government assistance or non-government assistance that can reasonably be considered to be in respect of the property and that, at the time of the filing of the taxpayer's return of income under this Part for the taxation year in which the property was acquired, the taxpayer has received, is entitled to receive or can reasonably be expected to receive; and

(c) be determined with reference to subsections 127(11.6) to (11.8) in respect of an expenditure or cost to a taxpayer except that

(i) the reference in subsection 127(11.6) to subsection 127(11.5) shall be read as a reference to section 127.45,

(ii) the reference in subsection 127(11.6) to subsection 127(26) shall be read as a reference to subsection 127.45(10), and

(iii) the term "qualified expenditure" is to be read as an expenditure eligible to be added to the capital cost of a clean technology property.

Deemed deduction

(6) For the purposes of this section, paragraph 12(1)(t), subsection 13(7.1), the description of I in the definition *undepreciated capital cost* in subsection 13(21), subsections 53(2) and 96(2.1), the amount deemed under subsection (2) to have been paid by a taxpayer for a taxation year is deemed to have been deducted from the taxpayer's tax otherwise payable under this Part for the year.

Repayment of assistance

(7) Where a taxpayer has, in a particular taxation year, repaid (or has not received and can no longer reasonably be expected to receive) an amount of government assistance or non-government assistance that was applied to reduce the cost of a property under paragraph (5)(b) for a preceding taxation year, the amount repaid (or no longer expected to be received) shall be deemed to be added to the cost to the taxpayer of a property acquired in the particular year for the purpose of determining the taxpayer's clean technology investment tax credit for the year.

Partnerships

(8) Subject to subsection (13), where, in a particular taxation year of a taxpayer who is a member of a partnership, an amount would be determined under subsection (2) in respect of the partnership, for its taxation year that ends in the particular year, if the partnership were a taxable Canadian corporation and its fiscal period were its taxation year, the portion of that amount that can reasonably be considered to be the taxpayer's share thereof shall be added in computing the clean technology investment tax credit of the taxpayer at the end of the particular year.

Limited partners

(9) Subsections 127(8.1) to (8.5) apply to the determination of the amount of a clean technology investment tax credit of a taxpayer who is a member of a partnership, with the references therein to subsection 127(8) to be read as references to subsection 127.45(8) and with such other modifications as the circumstances require.

Unpaid amounts

(10) For the purposes of this section, where any part of the capital cost of a taxpayer's clean technology property is unpaid on the day that is 180 days after the end of the taxation year in which a deduction in respect of a clean technology investment tax credit would otherwise be available in respect of the property, such amount is deemed to be

(a) excluded from the capital cost of such property in the year; and

(b) added to the capital cost of such property at the time it is paid.

Tax shelter investment

(11) Subsection (2) does not apply if a clean technology property – or an interest in a person or partnership that has, directly or indirectly, an interest in, or for civil law, a right in, such property – is a tax shelter investment for the purpose of section 143.2.

Recapture — conditions for application

(12) Subsection (13) applies where

- (a) a taxpayer acquired a clean technology property in a particular taxation year or any of the preceding 20 calendar year;
- (b) the taxpayer became entitled to a clean technology investment tax credit in respect of the capital cost, or a portion of the capital cost, of the particular property; and
- (c) the property (or another property that incorporates the particular property) is converted to a non-clean technology use, is exported from Canada or is disposed of without having been previously converted to a non-clean technology use or exported.

Recapture of credit

(13) If this subsection applies, there shall be added to the taxpayer's tax otherwise payable under this Part for the year the lesser of

- (a) the amount of the taxpayer's clean technology investment tax credit in respect of the particular property, and
- (b) the amount determined by the formula

$$A \times (B \div C)$$

where

A is the amount of the taxpayer's clean technology investment tax credit in respect of the particular property;

B is

- (a) in the case where the particular property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of the property; or
- (b) in the case where the particular property is disposed of to a person who does not deal at arm's length with the taxpayer, is converted to a non-clean technology use or is exported from Canada, the fair market value of the property; and

C is the capital cost of the particular property on which the clean technology investment tax credit was deducted.

Recapture of credit — partnerships

(14) Where a partnership would meet the conditions in subsection (12) if the partnership were a taxpayer, subsections 127(28) to (31) apply with such modifications as the circumstances require.

Certain non-arm's length transfers

(15) Subsections (12) to (14) do not apply to a taxpayer (in this subsection referred to as the "transferor") that disposes of a property to a qualifying taxpayer (in this subsection referred to as the "purchaser"), that is related to the transferor, if the purchaser acquired the property in circumstances where the property would be *clean technology property* to the purchaser but for paragraph (b) of that definition.

Certain non-arm's length transfers — recapture deferred

(16) If subsection (15) applies, subsections 127(34) and (35) apply with such modifications as the circumstances require, including that references to subsection 127(33) be read as subsection 127.45(15).

Clean technology investment tax credit — purpose

(17) The purpose of this section is to encourage the investment of capital in the adoption and operation of clean technology property in Canada.

(2) Subsection (1) is deemed to have come into force on March 28, 2023.

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

distribution equipment has the meaning assigned by subsection 1104(13) of the *Income Tax Regulations*; (*matériel de distribution*)

fossil fuel has the meaning assigned by subsection 1104(13) of the *Income Tax Regulations*; (*combustible fossile*)

transmission equipment has the meaning assigned by subsection 1104(13) of the *Income Tax Regulations*; (*matériel de transmission*)

(2) Subsection (1) is deemed to have come into force on March 28, 2023.

Consequential amendments related to the CCUS and Clean Technology Investment Tax Credits

1 (1) Paragraph 12(1)(t) of the Act is replaced by the following:

Investment tax credit

(t) the amount deducted under subsection 127(5), 127(6), 127.44(3) or 127.45(6) in respect of a property acquired or an expenditure made in a preceding taxation year in computing the taxpayer's tax payable for a preceding taxation year to the extent that it was not included in computing the taxpayer's income for a preceding taxation year under this paragraph or is not included in an amount determined under paragraph 13(7.1)(e) or 37(1)(e), subparagraph 53(2)(c)(vi) or 53(2)(h)(ii) or for I in the definition *undepreciated capital cost* in subsection 13(21) or L in the definition *cumulative Canadian exploration expense* in subsection 66.1(6);

(2) Subsection (1) applies to taxation years that end after 2021.

2 (1) The portion of subsection 13(7.1) of the Act before paragraph (a) is replaced by the following:

Deemed capital cost of certain property

(7.1) For the purposes of this Act, where section 80 applied to reduce the capital cost to a taxpayer of a depreciable property or a taxpayer deducted an amount under subsection 127(5), 127(6), 127.44(3) or 127.45(6) in respect of a depreciable property or received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance other than

(2) Paragraph 13(7.1)(e) of the Act is replaced by the following:

(e) where the property was acquired in a taxation year ending before the particular time, all amounts deducted under subsection 127(5), 127(6), 127.44(3) or 127.45(6) by the taxpayer for a taxation year ending before the particular time,

(3) Section 13 of the Act is amended by adding the following after subsection (7.5):

Capital expenditures — Classes 59 and 60

(7.6) Where a taxpayer has incurred an expenditure on account of capital, and the amount of the expenditure would have been included in the taxpayer's undepreciated capital cost of property included in Class 59 or 60 of Schedule II to the *Income Tax Regulations* if the taxpayer had acquired a property as a result of the expenditure, then the taxpayer is deemed to have acquired a property, included in Class 59 or 60, as the case may be, at a cost equal to the amount of the expenditure, at the time that the expenditure is incurred.

(4) The description of I in the definition *undepreciated capital cost* in subsection 13(21) of the Act is replaced by the following:

I is the total of all amounts deducted under subsection 127(5), 127(6), 127.44(3) or 127.45(6), in respect of a depreciable property of the class of the taxpayer, in computing the taxpayer's tax payable for a taxation year ending before that time and subsequent to the disposition of that property by the taxpayer,

(5) The portion of paragraph 13(24)(a) of the Act before subparagraph (i) is replaced by the following:

(a) subject to paragraph (b), for the purposes of the description of A in the definition *undepreciated capital cost* in subsection (21) and of sections 127, 127.1, 127.44 and 127.45, the property is deemed

(6) Subsections (1) to (5) apply to taxation years that end after 2021.

3 (1) Subparagraph 53(1)(e)(xiii) of the Act is replaced by the following:

(xiii) any amount required by subsection 127(30), 127.45(14) or section 211.92 to be added to the taxpayer's tax otherwise payable under this Part for a taxation year that ended before that time in respect of the interest in the partnership;

(2) Paragraph 53(2)(c) of the Act is amended by adding the following after subparagraph (vi):

(vi.1) an amount equal to that portion of all amounts of a CCUS tax credit deducted under subsection 127.44(3) in computing the tax otherwise payable by the taxpayer under this Part for the taxpayer's taxation years ending before that time that may reasonably be attributed to amounts added in computing the tax credit of the taxpayer because of subsection 127.44(10),

(vi.2) an amount equal to that portion of all amounts of a clean technology investment tax credit deducted under subsection 127.45(6) in computing the tax otherwise payable by the taxpayer under this Part for the taxpayer's taxation years ending before that time that may reasonably be attributed to amounts added in computing the tax credit of the taxpayer because of subsection 127.45(8),

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2022.

4 (1) Subsection 87(2) of the Act is amended by adding the following after paragraph (qq):

(qq.1) for the purposes of sections 127.44 and 127.45 and Part XII.7, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

5 (1) Subsection 88(1) of the Act is amended by adding the following after paragraph (e.3):

(e.31) for the purposes of sections 127.44 and 127.45 and Part XII.7 at the end of any particular taxation year ending after the subsidiary was wound up, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary;

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

6 (1) Subparagraph 96(2.1)(b)(ii) of the Act is replaced by the following:

(ii) the amount required by subsection 127(8), 127.44(10) or 127.45(8) in respect of the partnership to be added in computing the investment tax credit, the *CCUS tax credit* (as defined in subsection 127.44(1)) or the *clean technology investment tax credit* (as defined in subsection 127.45(1)) of the taxpayer for the taxation year,

(2) The portion of subsection 96(2.2) of the Act before paragraph (a) is replaced by the following:

At-risk amount

(2.2) For the purposes of this section and sections 111, 127, 127.44 and 127.45, the at-risk amount of a taxpayer, in respect of a partnership of which the taxpayer is a limited partner, at any particular time is the amount, if any, by which the total of

(3) The portion of subsection 96(2.4) of the Act before paragraph (a) is replaced by the following:

Limited partner

(2.4) For the purposes of this section and sections 111, 127, 127.44 and 127.45 a taxpayer who is a member of a partnership at a particular time is a limited partner of the partnership at that time if the member's partnership interest is not an exempt interest (within the meaning assigned by subsection (2.5)) at that time and if, at that time or within 3 years after that time,

(4) Subsections (1) to (3) are deemed to have come into force on January 1, 2022.

7 (1) Section 103 of the Act is amended by adding the following after subsection (2):

Agreement to share tax credits in unreasonable proportions

(3) Where the members of a partnership agree to share a *CCUS tax credit* (as defined in subsection 127.44(1)) or a *clean technology investment tax credit* (as defined in subsection 127.45(1)) of the partnership and the share of any such member of that tax credit is not reasonable in the circumstances having regard to the capital invested in or work performed for the partnership by the members thereof or such other factors as may be relevant, that share shall, notwithstanding any agreement, be deemed to be the amount that is reasonable in the circumstances.

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

8 (1) Clause 111(1)(e)(ii)(A) of the Act is replaced by the following:

(A) the amount required by subsections 127(8), 127.44(10) or 127.45(8) in respect of the partnership to be added in computing the investment tax credit, the CCUS tax credit (as defined in subsection 127.44(1)) or the clean technology investment tax credit (as defined in subsection 127.45(1)) of the taxpayer for the taxation year,

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

9 (1) Paragraph 152(1)(b) of the Act is replaced by the following:

(b) the amount of tax, if any, deemed by any of subsections 120(2) or (2.2), 122.5(3) to (3.003), 122.51(2), 122.7(2) or (3), 122.72(1), 122.8(4), 122.9(2), 122.91(1), 125.4(3), 125.5(3), 125.6(2) or (2.1), 127.1(1), 127.41(3), 127.44(2), 127.45(2) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year.

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

10 (1) Paragraph 157(3)(e) of the Act is replaced by the following:

(e) 1/12 of the total of the amounts each of which is deemed by subsection 125.4(3), 125.5(3), 125.6(2) or (2.1), 127.1(1), 127.41(3), 127.44(2) or 127.45(2) to have been paid on account of the corporation's tax payable under this Part for the year.

(2) Paragraph 157(3.1)(c) of the Act is replaced by the following:

(c) 1/4 of the total of the amounts each of which is deemed by subsection 125.4(3), 125.5(3), 125.6(2) or (2.1), 127.1(1), 127.41(3), 127.44(2) or 127.45(2) to have been paid on account of the corporation's tax payable under this Part for the taxation year.

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2022.

11 (1) Subsection 220(2.2) of the Act is replaced by the following:

Exception

(2.2) Subsection (2.1) does not apply in respect of a prescribed form, receipt or document, or prescribed information, that is filed with the Minister on or after the day specified, in respect of the form, receipt, document or information, in subsection 37(11), paragraph (m) of the definition *investment tax credit* in subsection 127(9), subsection 127.44(17) or 127.45(3).

(2) Subsection (1) is deemed to have come into force on January 1, 2022.

Labour Requirements Related to Certain Investment Tax Credits

1 (1) The Act is amended by adding the following after section 127.45:

Definitions

127.46 (1) The following definitions apply in this section, in sections 127.44 and 127.45 and in Part XII.7.

apprenticeship requirements means the requirements set out in subsection (5). (*exigences à l'égard d'apprentis*)

benefits means vacation, pension, health and welfare benefits required to be provided by employers to or for employees under an eligible collective agreement. (*avantages sociaux*)

covered worker means an individual (other than a trust)

(a) who is engaged in the preparation or installation of specified property at a designated work site as an employee of an incentive claimant or of another person or partnership;

(b) whose work or duties in respect of the designated work site are primarily manual or physical in nature; and

(c) who is not

(i) an administrative, clerical, or executive employee, or

(ii) a *business visitor to Canada* as described in section 187 of the *Immigration and Refugee Protection Regulations*. (*travailleur visé*)

designated work site in a taxation year of an incentive claimant means a work site where specified property of an incentive claimant is located during the year and includes the site of a CCUS project of the incentive claimant. (*chantier désigné*)

eligible collective agreement means

(a) in the Province of Quebec, a collective agreement negotiated in accordance with applicable provincial law; and

(b) in any other case,

(i) the most recent multi-employer collective bargaining agreement that may reasonably be considered the industry standard for a given trade, in a region, province or territory between a group of employers and a trade union, who are accredited to bargain together and to be bound by the same agreement, or

(ii) a project labour agreement that covers the work associated with the investments eligible for the specified tax credits and that is based on agreements described in subparagraph (i). (*convention collective admissible*)

incentive claimant means a person, or a partnership at least one member of which, plans to claim or has claimed a specified tax credit for a taxation year. (*demandeur d'incitatif*)

installation taxation year, in respect of a specified tax credit, means a taxation year during which preparation or installation of specified property occurs. (*année d'imposition de l'installation*)

prevailing wage requirements means the requirements set out in subsection (3). (*exigences relatives au salaire en vigueur*)

Red Seal trade means a Red Seal trade for a province under the Red Seal Program managed by the Canadian Council of Directors of Apprenticeship. (*métier désigné Sceau rouge*)

Red Seal worker means a covered worker whose duties are, or are equivalent to, those duties normally performed by workers in a Red Seal trade. (*travailleur Sceau rouge*)

reduced tax credit rate means the regular tax credit rate minus ten percentage points. (*taux du crédit d'impôt réduit*)

regular tax credit rate means the *specified percentage* as defined in subsections 127.44(1) and 127.45(1), as the case may be. (*taux du crédit d'impôt régulier*)

specified property means property all or a portion of the cost of which qualifies for a specified tax credit. (*bien déterminé*)

specified tax credit means the *CCUS tax credit* under section 127.44 and the *clean technology investment tax credit* under section 127.45. (*crédit d'impôt déterminé*)

Reduced or regular rate

(2) Despite sections 127.44 and 127.45, the applicable rate for each specified tax credit of an incentive claimant is the reduced tax credit rate unless the incentive claimant elects in prescribed form and manner to meet the prevailing wage requirements under subsection (3) and the apprenticeship requirements under subsection (5) for each installation taxation year in respect of the specified tax credit.

Prevailing wage requirements

(3) For the purposes of this section, the prevailing wage requirements for an incentive claimant for an installation taxation year are that

(a) each covered worker at a designated work site of an incentive claimant must be compensated for their work on the preparation or installation of specified property

(i) in accordance with the terms of an eligible collective agreement that applies to the worker; or

(ii) in an amount that is at least equal to the amount of wages and benefits as specified in the eligible collective agreement that most closely aligns with the covered worker's experience level, tasks and location, calculated on a per-hour or similar basis;

(b) the incentive claimant attests, in prescribed form and manner, that it has met the prevailing wage requirement in paragraph (a) for its own employees who are covered workers, if any, and that it has taken reasonable steps to ensure that any covered workers employed by any other person or partnership at the designated work site are compensated in accordance with paragraph (a); and

(c) it has caused to be communicated, either in a poster or notice, in a manner readily visible to and accessible by covered workers at the designated work site or by electronic means, a notice confirming that the work site is a work site subject to prevailing wage requirements in relation to covered workers, including a plain language explanation of what that means for workers and information regarding how to report failures to pay prevailing wages to the Minister.

Indexation of prevailing wages

(4) Where an eligible collective agreement that is used to calculate the prevailing wage requirement under paragraph (3)(a) is expired, then the amounts of wages and benefits stipulated in the agreement shall be adjusted by the average

Consumer Price Index in the manner set out in section 117.1 for each calendar year that begins after the expiration of the eligible collective agreement.

Apprenticeship requirements

(5) For the purposes of this section, the apprenticeship requirements for an incentive claimant for an installation taxation year are that

(a) subject to paragraph (b), the incentive claimant makes reasonable efforts to ensure that apprentices registered in a Red Seal trade work at least 10% of the total hours that are worked during the year by Red Seal workers at a designated work site of the incentive claimant on the preparation or installation of specified property;

(b) if an applicable labour law or collective agreement that specifies a maximum ratio of apprentices to journeypersons, or otherwise restricts the number of apprentices employed at a designated work site, prevents the condition in paragraph (a) from being met, the incentive claimant makes reasonable efforts to ensure that the highest possible percentage of the total labour hours, performed during the year by Red Seal workers on the preparation or installation of specified property, is performed by apprentices registered in a Red Seal trade while respecting the applicable labour law or collective agreement; and

(c) the incentive claimant attests in prescribed form and manner that it has met the apprenticeship requirements in paragraph (a) or (b) in respect of covered workers at the designated work site.

Addition to tax — wage requirement

(6) Unless subsection (9) applies, if an incentive claimant claims a specified tax credit at a regular tax credit rate in a taxation year but does not meet the prevailing wage requirement in paragraph (3)(a) in respect of a covered worker for one or more days in an installation taxation year in respect of that specified tax credit, there shall be added to the tax payable under this Part for the installation taxation year by the incentive claimant an amount equal to \$20 for each day in the installation taxation year on which the covered worker was not paid the prevailing wage.

Addition to tax — apprenticeship requirement

(7) Unless subsection (9) applies, if an incentive claimant claims a specified tax credit at a regular tax credit rate in a taxation year in respect of a designated work site, but less than 10% of the total hours that are worked during an installation taxation year in respect of that specified tax credit at the designated work site on the preparation or installation of specified property are worked by apprentices registered in a Red Seal trade, there shall be added to the tax payable under this Part for the installation taxation year by the incentive claimant the amount determined by the formula

$$\$100 \times (A - B)$$

where

A is the total number of hours of labour required to be performed by apprentices registered in a Red Seal trade for the installation taxation year at the designated work site of the incentive claimant as described in paragraph (5)(a) or (b), as applicable, in each case read without reference to the words “the incentive claimant makes reasonable efforts to ensure that” ; and

B is the total number of actual hours of labour performed by apprentices registered in a Red Seal trade for the installation taxation year at the designated work site of the incentive claimant on the preparation or installation of specified property.

Indexation

(8) The dollar amounts in subsections (6) and (7) shall be adjusted for inflation in each calendar year commencing after 2023 in the manner set out in section 117.1.

Gross negligence

(9) If an incentive claimant has claimed a specified tax credit at the regular tax credit rate in a taxation year (referred to in this subsection as the “claim year”) but has failed to meet the prevailing wage requirements or the apprenticeship requirements for an installation taxation year in respect of that specified tax credit and the Minister determines that the incentive claimant knowingly or in circumstances amounting to gross negligence failed to meet those requirements, then

(a) the incentive claimant is not entitled to the regular tax credit rate, and is entitled to not more than the reduced tax credit rate, for the specified tax credit; and

(b) the incentive claimant is liable to a penalty for the claim year equal to the amount determined by the formula

$$50\% \times A - B$$

where

A is the amount of the specified tax credit claimed by the incentive claimant at the regular tax credit rate for the claim year; and

B is the amount that the incentive claimant would have been entitled to claim as a specified tax credit at the reduced tax credit rate for the claim year.

CCUS refurbishment credit

(10) Subsection (9) does not apply in respect of a CCUS refurbishment tax credit as described in subsection 127.44(5).

Corrective measures — prevailing wage requirement

(11) Unless subsection (9) applies, if an incentive claimant receives a notification from the Minister specifying that the incentive claimant did not meet the prevailing wage requirements for a designated work site for a taxation year, the incentive claimant may within one year after receipt of the notification, or such longer period as is acceptable to the Minister, cause each covered worker to be paid the top-up amount determined under subsection (12).

Top-up amount

(12) For each covered worker in respect of an incentive claimant, the top-up amount referred to in subsection (11) for a taxation year shall equal or exceed the amount determined by the formula:

$$A - B + C$$

where

A is the amount that the covered worker would have received or benefited from, in respect of the worker’s employment at the designated work site during the taxation year, had the covered worker been paid in accordance with the prevailing wage requirement in paragraph (3)(a);

B is the amount that the worker actually received or benefited from, in respect of the worker’s employment at the designated work site during the taxation year; and

C is interest on the difference between the description of A and the description of B, calculated from the beginning of the taxation year to the time of payment at the prescribed rate specified in paragraph 4301(a) of the *Income Tax Regulations*.

Top-up payment not made

(13) For any covered worker in respect of whom a top-up amount is not paid under subsection (11), the incentive claimant shall pay to the Receiver General, as a penalty under this Act, 120% of the amount determined by the formula in subsection (12).

Tax treatment of top-up amount

(14) A top-up amount

(a) that is paid to a covered worker is deemed to be

- (i) salary and wages of the worker for the year in which it is received, and
 - (ii) deductible in computing income by the payor for the year in which it is paid; and
- (b) is not an expenditure that qualifies for any specified tax credit.

Exception

(15) This section does not apply to a specified tax credit claimed for the acquisition of off-road zero emission vehicles or to the acquisition and installation of low carbon heat equipment.

(2) Subsection (1) applies in respect of specified property prepared or installed after September 30, 2023.

Zero-Emission Technology Manufacturers

1 (1) The description of A in subsection 125.2(2) of the Act is replaced by the following:

A is

- (a) 0.075, if the taxation year begins after 2021 and before 2032,
- (b) 0.05625, if the taxation year begins after 2031 and before 2033,
- (c) 0.0375, if the taxation year begins after 2032 and before 2034,
- (d) 0.01875, if the taxation year begins after 2033 and before 2035, and
- (e) nil, in any other case;

(2) The description of C in subsection 125.2(2) of the Act is replaced by the following:

C is

- (a) 0.045, if the taxation year begins after 2021 and before 2032,
- (b) 0.03375, if the taxation year begins after 2031 and before 2033,
- (c) 0.0225, if the taxation year begins after 2032 and before 2034,
- (d) 0.01125, if the taxation year begins after 2033 and before 2035, and
- (e) nil, in any other case; and

2 (1) Clause (a)(i)(I) of the definition *qualified zero-emission technology manufacturing activities* in section 5202 of the Regulations is replaced by the following:

(I) equipment that is a component of property included in clauses (A) to (H) or (L) to (O), if such equipment is purpose-built or designed exclusively to form an integral part of that property,

(2) Subparagraph (a)(i) of the definition *qualified zero-emission technology manufacturing activities* in section 5202 of the Regulations is amended by striking out “and” at the end of clause (J), by striking out “and” at the end of clause (K) and by adding the following after clause (K):

- (L) nuclear energy equipment,
- (M) heavy water,
- (N) nuclear fuels, and
- (O) nuclear fuel rods, and

(3) Subsections (1) and (2) apply to taxation years that begin after 2023.

Flow-Through Shares and Critical Mineral Exploration Tax Credit – Lithium from Brines

1 (1) Paragraphs (f.1) and (g) of the definition *principal-business corporation* in subsection 66(15) of the Act are replaced by the following:

(f.1) the production or marketing of calcium chloride, gypsum, kaolin, lithium, sodium chloride or potash,

(g) the manufacturing of products, where the manufacturing involves the processing of calcium chloride, gypsum, kaolin, lithium, sodium chloride or potash,

(2) Section 66 of the Act is amended by adding the following after subsection (20):

Lithium brine well deemed mine

(21) For the purposes of paragraph (f) of the definition *Canadian exploration expense* in subsection 66.1(6) and paragraphs (c.2) and (d) of the definition *Canadian development expense* in subsection 66.2(5),

(a) a mine includes a well for the extraction of material from a lithium brine deposit;

(b) all wells of a taxpayer for the extraction of material from one or more lithium brine deposits, the material produced from which is sent to the same plant for processing, are deemed to be one mine of the taxpayer; and

(c) all wells of a taxpayer for the extraction of material from one or more lithium brine deposits that the Minister, in consultation with the Minister of Natural Resources, determines constitute one project, are deemed to be one mine of the taxpayer.

(3) Subsections (1) and (2) are deemed to have come into force on March 28, 2023.

2 (1) Paragraphs (c.2) and (d) of the definition *Canadian development expense* in subsection 66.2(5) of the Act are replaced by the following:

(c.2) any expense, or portion of any expense, that is not a Canadian exploration expense, incurred by the taxpayer after March 20, 2013 for the purpose of bringing a new mine in a mineral resource in Canada, other than a bituminous sands deposit or an oil shale deposit, into production in reasonable commercial quantities and incurred before the new mine comes into production in such quantities, including an expense for clearing, removing overburden, strip-ping, sinking a mine shaft, constructing an adit or other underground entry or drilling a well for the extraction of lithium from brines,

(d) any expense (other than an amount included in the capital cost of depreciable property) incurred by the taxpayer after 1987

(i) in sinking or excavating a mine shaft, main haulage way or similar underground work designed for continuing use, for a mine in a mineral resource in Canada built or excavated after the mine came into production,

(ii) in extending any such shaft, haulage way or work referred to in subparagraph (i), or

(iii) in drilling or completing a well for the extraction of lithium from brines in Canada after the mine came into production,

(2) Subsection (1) applies in respect of expenses incurred on or after March 28, 2023.

3 (1) Subparagraph (d)(ii) of the definition *mineral resource* in subsection 248(1) of the Act is replaced by the following:

(ii) the principal mineral extracted is ammonite gemstone, calcium chloride, diamond, gypsum, halite, kaolin, lithium or sylvite, or

(2) Subsection (1) is deemed to have come into force on March 28, 2023, and for greater certainty, subsection (1) shall not apply in respect of expenses incurred before March 28, 2023.

Tax on Repurchases of Equity

1 (1) The Act is amended by adding the following after section 183.2:

PART II.2

Tax on Repurchases of Equity

Definitions

183.3 (1) The following definitions apply in this Part.

covered entity for a taxation year, means an entity that is a corporation, trust or partnership if at any time in the taxation year

(a) equity of the entity is listed on a designated stock exchange; and

(b) the entity is

(i) a corporation resident in Canada (other than a mutual fund corporation),

(ii) a mutual fund trust that

(A) is a *real estate investment trust* (as defined in subsection 122.1(1)),

(B) is a SIFT trust, or

(C) would be a SIFT trust if

(I) each reference in paragraph (a) of the definition *non-portfolio property* in subsection 122.1(1) to “subject entity” were read as “corporation, partnership or trust” and paragraph (c) of that definition were read without reference to the words “in Canada”,

(II) paragraph (a) of the definition *Canadian real, immovable or resource property* in subsection 248(1) were read without reference to the words “situated in Canada”, and

(III) the definitions *timber resource property* in subsection 13(21) and *Canadian resource property* in subsection 66(15) were read without references to the words “in Canada”, or

(iii) a partnership that

(A) is a SIFT partnership, or

(B) would be a SIFT partnership if

(I) each reference in paragraph (a) of the definition *non-portfolio property* in subsection 122.1(1) to “subject entity” were read as “corporation, partnership or trust” and paragraph (c) of that definition were read without reference to the words “in Canada”,

(II) paragraph (a) of the definition *Canadian real, immovable or resource property* in subsection 248(1) were read without reference to the words “situated in Canada”, and

(III) the definitions *timber resource property* in subsection 13(21) and *Canadian resource property* in subsection 66(15) were read without references to the words “in Canada”. (*entité visée*)

equity of an entity, means, if the entity is

- (a) a corporation, a share of the capital stock of the corporation;
- (b) a trust, an income or capital interest in the trust; and
- (c) a partnership, an interest as a member of the partnership. (*capitaux propres*)

reorganization or acquisition transaction means

- (a) an issuance of equity by a covered entity unless
 - (i) cash is the only consideration paid to the covered entity in exchange for the issuance,
 - (ii) the issuance is made to an employee of the covered entity (or an entity related to the covered entity) in the course of the employee's employment, or
 - (iii) the issuance is in exchange for a bond, debenture or note of the covered entity that was issued solely for cash consideration, the terms of which confer on the holder the right to make the exchange; and
- (b) a redemption, acquisition or cancellation of equity by a covered entity
 - (i) on an exchange of equity by a holder for no consideration other than equity (that does not include any substantive debt) that is equity of
 - (A) the covered entity,
 - (B) another entity that is related to the covered entity immediately before the exchange and is a covered entity immediately after the exchange, or
 - (C) another covered entity that controls the covered entity (or an amalgamated successor entity of the covered entity) immediately after the exchange,
 - (ii) on a winding-up of the covered entity during which all or substantially all of the property owned by the covered entity is distributed to the equity holders of the covered entity,
 - (iii) on an amalgamation of the covered entity with one or more other predecessor corporations to which subsection 87(1) applies if each person or partnership that, immediately before the amalgamation, owns equity of the covered entity, receives no consideration for the disposition of their equity on the amalgamation, other than equity (that does not include any substantive debt) of the new corporation within the meaning of subsection 87(1),
 - (iv) in the course of a reorganization to which paragraph 55(3)(a) or (b) applies,
 - (v) on a *qualifying disposition* (as defined in subsection 107.4(1)), or
 - (vi) on a *qualifying exchange* (as defined in subsection 132.2(1)). (*opération de réorganisation ou d'acquisition*)

specified affiliate at any time, of a covered entity, means a corporation, trust or partnership (in this definition referred to as an "affiliate") if at that time, the covered entity

- (a) controls the affiliate; or
- (b) owns, directly or indirectly, equity of the affiliate having a fair market value equal to more than 50% of the fair market value of the total equity of the affiliate. (*entité affiliée déterminée*)

substantive debt of a covered entity means equity that, in accordance with its terms

- (a) is not convertible or exchangeable other than for

(i) equity that if issued would be substantive debt of the same covered entity,

(ii) a bond, debenture or note of the covered entity, the fair market value of which does not exceed the total of the amounts referred to in subparagraphs (d)(i) to (iii), or

(iii) equity that would be issued only after the occurrence of a trigger event pursuant to a non-viability contingent capital provision included in the terms of the equity to satisfy regulatory capital requirements applicable to the covered entity;

(b) is non-voting;

(c) has a periodic rate of dividend or other distribution payable, if any, expressed as a percentage of an amount equal to the fair market value of the consideration for which the equity was issued if the percentage is

(i) fixed, or

(ii) determined by reference to a market interest rate (including a Government of Canada Treasury Bill) plus a fixed amount, if any; and

(d) entitles any holder of the equity to receive, on the redemption, cancellation or acquisition of the equity by the entity or by a person or partnership with whom the entity does not deal at arm's length or is affiliated, an amount that does not exceed the total of the following amounts:

(i) the fair market value of the consideration for which the equity was issued,

(ii) any unpaid distributions or dividends on the equity that are payable to the holder, and

(iii) any premium that is payable to the holder solely due to the early redemption, cancellation or acquisition of the equity. (*dette substantielle*)

Tax payable

(2) Each person or partnership that is a covered entity for a taxation year shall pay a tax for the taxation year equal to the amount determined by the formula

$$0.02 \times (A - B)$$

where

A is the total fair market value of equity (other than substantive debt) of the covered entity that is redeemed, acquired or cancelled (other than by a reorganization or acquisition transaction) in the taxation year by the covered entity (except equity acquired from a specified affiliate that was previously deemed by subsection (5) to have been acquired by the covered entity and previously included in the description of A); and

B is the total fair market value of equity (other than substantive debt) of the covered entity that is issued (other than in the course of a reorganization or acquisition transaction) in the taxation year.

Tax payable — anti-avoidance

(3) Equity that is redeemed, acquired or cancelled, or that is issued by a covered entity, as part of a *transaction* (as defined in subsection 245(1)) or series of transactions shall be included in the description of A or excluded from the description of B in subsection (2) (as the case may be) if it is reasonable to consider that the primary purpose of the transaction or series is to cause a decrease in the amount referred to in the description A in that subsection or an increase in the amount referred to in the description of B in that subsection.

De minimis rule

(4) Despite subsection (2), if the amount determined for A in subsection (2) for a taxation year is less than \$1,000,000 (prorated based upon the number of days in the taxation year if the taxation year is less than 365 days), no tax is payable under this Part for the taxation year.

Similar transactions

(5) For the purposes of subsection (2), if a specified affiliate of a covered entity acquires equity of the covered entity, the equity is deemed to be acquired by the covered entity unless the specified affiliate is

(a) a registered securities dealer that

(i) acquires the equity in the capacity of an agent in the ordinary course of business, and

(ii) disposes of the equity to customers within a reasonable period of time that is consistent with the holding of equity in the ordinary course of business;

(b) a trust established for the benefit of employees and former employees of the covered entity (or of a specified affiliate of the covered entity) that satisfies the following conditions

(i) the trust is an employee benefit plan, and

(ii) the terms of the trust provide that any equity of the covered entity acquired or held by the trust cannot be transferred to, or otherwise be available for the benefit of, the covered entity or any specified affiliate of the covered entity;

(c) a trust governed by an employees profit sharing plan; or

(d) a trust governed by a deferred profit sharing plan.

Similar transactions — anti-avoidance

(6) If it is reasonable to consider that one of the main purposes of a *transaction* (as defined in subsection 245(1)) or series of transactions is to cause a person or partnership to acquire equity of a covered entity to avoid the tax otherwise payable under this Part, the person or partnership shall be deemed to be a specified affiliate of the covered entity from the time that the transaction or series commenced until immediately after the time the transaction or series ends.

Return

183.4 (1) If a covered entity redeems, acquires or cancels equity of the entity in a taxation year,

(a) where the entity is a corporation, on or before the day it is required to file its return of income under Part I for the year, the corporation shall file with the Minister a return for the year under this Part in prescribed form;

(b) where the entity is a trust, within 90 days from the end of the taxation year, the trustee of the trust shall file with the Minister a return for the year under this Part in prescribed form; and

(c) where the entity is a partnership, a member of the partnership that has authority to act for the partnership shall file with the Minister a return for the year under this Part in prescribed form on or before the earlier of

(i) the day that is five months after the end of the taxation year, and

(ii) March 31 in the calendar year immediately following the calendar year in which the taxation year ended.

Payment

(2) Every covered entity that is liable to pay tax under this Part for a taxation year, shall

(a) if the entity is a corporation or trust, pay its tax payable under this Part for the year to the Receiver General on or before its balance-due day for the year; and

(b) if the entity is a partnership, pay its tax payable under this Part for the year to the Receiver General on or before the day which the partnership is required to file a return for the year under subsection (1).

Provisions applicable to Part

(3) Subsections 150(2) and (3), sections 152, 158 and 159, subsections 160.1(1) and 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

(2) Subsection (1) applies to transactions that occur after 2023.

General Anti-Avoidance Rule

1 (1) Paragraph 152(4)(b) of the Act is amended by striking out “or” at the end of subparagraph (vi), by adding “or” at the end of subparagraph (vii) and by adding the following after subparagraph (vii):

(viii) is made to give effect to the application of section 245 in respect of a transaction, unless the transaction was disclosed by the taxpayer to the Minister in accordance with section 237.3 or 237.4;

(2) Paragraph 152(4.01)(b) of the Act is amended by striking out “or” at the end of subparagraph (ix), by adding “or” at the end of subparagraph (x) and by adding the following after subparagraph (x):

(xi) the transaction referred to in subparagraph (4)(b)(viii);

2 Section 237.3 of the Act is amended by adding the following after subsection (12):

Optional disclosure — GAAR

(12.1) If subsection (2) does not apply to a taxpayer in respect of a transaction or series of transactions of which the transaction is a part, the taxpayer may file an information return in prescribed form and containing prescribed information in respect of the transaction or series on or before the taxpayer’s filing-due date for the taxation year in which the transaction occurs.

Late filing — GAAR

(12.2) Despite subsection (12.1), a taxpayer may file the information return referred to in subsection (12.1) up to one year after the deadline referred to in that subsection, in which case

(a) for the purpose of applying subparagraphs 152(4)(b)(viii) and (4.01)(b)(xi) to the transaction referred to in subsection (12.1), the reference to “3 years” in paragraph 152(4)(b) shall be read as “1 year”; and

(b) for the purpose of applying subsection 245(5.1) to the transaction, the information return is deemed to have been filed within the time required by this section.

3 (1) Section 245 of the Act is amended by adding the following before subsection (1):

Preamble

(0.1) This section of the Act contains the general anti-avoidance rule, which

(a) applies to deny the tax benefit of avoidance transactions that result directly or indirectly either in a misuse of provisions of the Act (or any of the enactments listed in subparagraphs (4)(a)(ii) to (v)) or an abuse having regard to those provisions read as a whole, while not preventing taxpayers from obtaining tax benefits contemplated by Parliament; and

(b) strikes a balance between

(i) the government of Canada’s responsibility to protect the tax base and the fairness of the tax system, and

(ii) taxpayers’ need for certainty in planning their affairs.

(2) Subsection 245(3) of the Act is replaced by the following:

Avoidance transaction

(3) Unless it may reasonably be considered that obtaining the tax benefit is not one of the main purposes for undertaking or arranging a transaction, the transaction is an avoidance transaction if the transaction

(a) but for this section, would result, directly or indirectly, in a tax benefit; or

(b) is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit.

(3) Section 245 of the Act is amended by adding the following after subsection (4):

Presumption — economic substance

(4.1) If an avoidance transaction is significantly lacking in economic substance, it is presumed that the transaction results in a misuse under paragraph (4)(a) or an abuse under paragraph (4)(b).

Economic substance — meaning

(4.2) Depending on the particular circumstances, the following factors establish that a transaction or series of transactions is significantly lacking in economic substance:

(a) all or substantially all of the opportunity for gain or profit and risk of loss of the taxpayer – taken together with those of all non-arm's length taxpayers – remains unchanged, including because of

(i) a circular flow of funds,

(ii) offsetting financial positions,

(iii) the timing between steps in a series, or

(iv) the use of an accommodation party;

(b) it is reasonable to conclude that, at the time the transaction or series was entered into, the expected value of the tax benefit exceeded the expected non-tax economic return (which excludes both the tax benefit and any tax advantages connected to another jurisdiction); and

(c) it is reasonable to conclude that the entire, or almost entire, purpose for undertaking or arranging the transaction or series was to obtain the tax benefit.

(4) Section 245 of the Act is amended by adding the following after subsection (5):

Penalty

(5.1) If subsection (2) applies to a person in respect of a transaction or series of transactions that was not disclosed by the person to the Minister in accordance with section 237.3 or 237.4, the person is liable to a penalty for each taxation year equal to the amount determined by the formula

$$(A - B) \times 25\% - C$$

where

A is the tax payable by the person under this Act for the year;

B is the tax that would have been payable by the person under this Act for the year if subsection (2) had not applied in respect of the transaction or series; and

C is the amount of any penalty payable by the person under subsection 163(2), to the extent that the amount is in respect of the transaction or series and did not reduce the penalty payable by the person under this subsection in a preceding taxation year.

Penalty — exception

(5.2) Subsection (5.1) does not apply to a person in respect of a transaction or series of transactions where the person demonstrates that, at the time that the transaction or series was entered into, it was reasonable for the person to have concluded that subsection (2) would not apply to the transaction or series in reliance on the transaction or series being identical or almost identical to a transaction or series that was the subject of

- (a) administrative guidance or statements that were published by the Minister or another relevant governmental authority; or
- (b) one or more court decisions.

(5) Subsections (2) to (4) apply to transactions that occur on or after January 1, 2024.

Income Tax and GST/HST Treatment of Credit Unions

1 (1) Paragraph (a) of the definition *credit union* in subsection 137(6) of the Act is replaced by the following:

(a) it is a *local cooperative credit society* (within the meaning assigned by section 2 of the *Bank Act*, if that definition were read without reference to its paragraph (b)) or a federal credit union,

(2) Subparagraph (b)(i) of the definition *credit union* in subsection 137(6) of the Act is replaced by the following:

(i) incorporated as credit unions or cooperative credit societies, each of which is described in paragraph (a), or all or substantially all of the members of which were credit unions, cooperatives or a combination thereof,

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2016.

Excessive Interest and Financing Expenses Limitation

1 (1) Subsection 12(1) of the Act is amended by adding the following after paragraph (l.1):

Partnership — interest and financing expenses add back

(l.2) the amount determined by the formula

$$A \times B$$

where

A is the total of all amounts each of which is an amount determined under paragraph (h) of the description of A in the definition *interest and financing expenses* in subsection 18.2(1) in respect of the taxpayer for the taxation year, and

B is

- (i)** if the taxpayer is an *excluded entity* for the year (as defined in subsection 18.2(1)), nil, and
- (ii)** in any other case, the proportion determined under the first formula in subsection 18.2(2) in respect of the taxpayer for the year;

(2) Subsection 12(2.02) of the Act is replaced by the following:

Source of income

(2.02) For the purposes of this Act, if a particular amount is included in computing the income of a taxpayer for a taxation year because of paragraph (1)(l.1) or (l.2) and the particular amount is in respect of another amount that is deductible by a partnership in computing its income from a particular source or from sources in a particular place, the particular amount is deemed to be from the particular source or from sources in the particular place, as the case may be.

(3) Subsections (1) and (2) apply in respect of taxation years of a taxpayer that begin on or after October 1, 2023. However, subsections (1) and (2) also apply in respect of a taxation year of a taxpayer that begins before, and ends after, October 1, 2023 if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection (1) or 3(1) to the taxpayer.

2 (1) The portion of subsection 18(4) of the Act before paragraph (a) is replaced by the following:

Limitation on deduction of interest

(4) Notwithstanding any other provision of this Act (other than subsection (8)), in computing the income for a taxation year of a corporation or a trust from a business (other than the Canadian banking business of an authorized foreign bank) or property, no deduction shall be made in respect of that proportion of any amount that would, in the absence of this subsection and section 18.2, be deductible in computing that income in respect of interest paid or payable by it on outstanding debts to specified non-residents that

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

3 (1) The Act is amended by adding the following after section 18.1:

Definitions

18.2 (1) The following definitions apply in this section and section 18.21.

absorbed capacity of a taxpayer for a taxation year means the lesser of

(a) the taxpayer's cumulative unused excess capacity for the year, determined as if the taxpayer's absorbed capacity for the year were nil, and

(b) the amount determined by the formula

$$A - (B + C)$$

where

A is the taxpayer's interest and financing expenses for the year,

B is

(i) if subsection 18.21(2) applies in respect of the taxpayer for the year, the amount determined in respect of the taxpayer for the year under that subsection, and

(ii) in any other case, the amount determined by the formula

$$D \times E$$

where

D is the taxpayer's ratio of permissible expenses for the year, and

E is the taxpayer's adjusted taxable income for the year, and

C is the taxpayer's interest and financing revenues for the year. (*capacité absorbée*)

adjusted taxable income of a taxpayer for a taxation year means the amount determined by the formula

$$A + B - C$$

where

A is the positive or negative amount determined by the formula

$$D - E$$

where

D is

(a) if the taxpayer is non-resident, the taxpayer's taxable income earned in Canada for the year (determined without regard to subsection (2) and paragraphs 12(1)(l.2) and 111(1)(a.1)), and

(b) in any other case, the taxpayer's taxable income for the year (determined without regard to subsection (2), paragraphs 12(1)(l.2) and 111(1)(a.1) and clause 95(2)(f.11)(ii)(D)), and

E is the total of

(a) the taxpayer's non-capital loss for the year (determined without regard to subsection (2), paragraphs 12(1)(l.2) and 111(1)(a.1) and clause 95(2)(f.11)(ii)(D)), and

(b) the total of all amounts each of which is, in respect of a corporation that is a controlled foreign affiliate of the taxpayer at the end of an affiliate taxation year ending in the year — or a controlled foreign affiliate of a partnership, of which the taxpayer or a controlled foreign affiliate of the taxpayer is a member, at the end of an affiliate taxation year ending in a fiscal period of the partnership — an amount determined by the formula

$$T \times U/V$$

where

T is the lesser of

(i) the affiliate's foreign accrual property loss (determined without regard to clause 95(2)(f.11)(ii)(D)) for the affiliate taxation year, and

(ii) the amount by which the affiliate's relevant affiliate interest and financing expenses for the affiliate taxation year exceeds the affiliate's relevant affiliate interest and financing revenues for the affiliate taxation year,

U is the amount that is included in the taxpayer's interest and financing expenses for the year in respect of the affiliate's relevant affiliate interest and financing expenses for the affiliate taxation year, and

V is the affiliate's relevant affiliate interest and financing expenses for the affiliate taxation year;

B is the total of all amounts (subject to paragraph (k), other than an amount that can reasonably be considered to be in respect of exempt interest and financing expenses) each of which is

(a) the taxpayer's interest and financing expenses for the year,

(b) an amount deducted by the taxpayer in computing its income for the year under paragraph 20(1)(a), paragraph 59.1(a), subsection 66(4), 66.1(2) or (3), 66.2(2), 66.21(4), 66.4(2), 66.7(1), (2), (2.3), (3), (4) or (5), other than any portion of that amount that is described in subparagraph (c)(ii) of the description of A in the definition *interest and financing expenses*,

(c) an amount deducted by the taxpayer in computing its income for the year under subsection 20(16), other than any portion of that amount that is described in paragraph (d) of the description of A in the definition *interest and financing expenses*,

(d) in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the following formula

$$F \times G - H$$

where

F is the total of all amounts, each of which is an amount deducted by the partnership under paragraph 20(1)(a) or subsection 20(16) in computing its income or loss from the source, or the source in a particular place, for the fiscal period, other than any portion of that amount that is described in subparagraph (c)(ii) of the description of A in the definition *interest and financing expenses*,

G is the taxpayer's specified proportion, if the references in the definition *specified proportion* to "total income or loss" were read as "income or loss from the source, or the source in a particular place", and

H is the portion of an amount referred to in the description of F that can reasonably be considered to not be deductible in computing the taxpayer's income for the year, or to not be included in computing the taxpayer's non-capital loss for the year, because of subsection 96(2.1);

(e) the portion of an amount deducted under paragraph 111(1)(e) for the year, in respect of a partnership of which the taxpayer is a member, that can reasonably be considered to be attributable to an amount referred to in the description of H in paragraph (d) in respect of a fiscal period of the partnership ending in a preceding taxation year of the taxpayer,

(f) an amount deducted by the taxpayer under paragraph 110(1)(k) in computing its taxable income for the year,

(g) an amount deducted by the taxpayer under subsection 104(6) in computing its income for the year, except to the extent of any portion of the amount that has been designated under subsection 104(19) for the year,

(h) an amount determined by the formula

$$I \times J/K$$

where

I is the amount deducted by the taxpayer under paragraph 111(1)(a) in computing its taxable income for the year, in respect of the taxpayer's non-capital loss (other than a specified pre-regime loss of the taxpayer in respect of the year) for another taxation year (referred to in this paragraph as the "taxpayer loss year"),

J is the lesser of

(i) the non-capital loss for the taxpayer loss year, and

(ii) the amount determined by the formula

$$W - X - Y$$

where

W is the total of all amounts, each of which is an amount that is

(A) the interest and financing expenses of the taxpayer for the taxpayer loss year, determined without regard to any amount or portion of an amount that is not deductible because of subsection (2) or clause 95(2)(f.11)(ii)(D),

(B) described in any of paragraphs (b) to (g) or (j) to (m) of the description of B for the taxpayer loss year, or

(C) deducted by the taxpayer under paragraph 111(1)(a.1) in computing its taxable income for the taxpayer loss year,

X is the total of all amounts, each of which is an amount

(A) described in any of paragraphs (a) to (f), (h) or (j) of the description of C for the taxpayer loss year,

(B) included in the income of the taxpayer for the taxpayer loss year by reason of paragraph 12(1)(l.2), and

Y is the total of all amounts, each of which is an amount determined by the formula

$$Z \times Z.1/Z.2$$

where

Z is the lesser of

(A) the foreign accrual property loss, for an affiliate taxation year, of a corporation (referred to throughout the description of **Y** as the “affiliate”) that, at the end of the affiliate taxation year, is a controlled foreign affiliate of the taxpayer, or is a controlled foreign affiliate of a partnership of which the taxpayer or a controlled foreign affiliate of the taxpayer is a member at any time, and

(B) the amount by which the affiliate’s relevant affiliate interest and financing expenses for the affiliate taxation year (determined without regard to any amount or portion of an amount that is not deductible because of clause 95(2)(f.11)(ii)(D)) exceeds the total of all amounts, each of which is

(I) the affiliate’s relevant affiliate interest and financing revenues for the affiliate taxation year, or

(II) an amount included under subclause 95(2)(f.11)(ii)(D)(II) in respect of the affiliate for the affiliate taxation year,

Z.1 is the amount that is included in the taxpayer’s interest and financing expenses for the taxpayer loss year in respect of the affiliate’s relevant affiliate interest and financing expenses for the affiliate taxation year, and

Z.2 is the affiliate’s relevant affiliate interest and financing expenses for the affiliate taxation year; and

K is the non-capital loss for the taxpayer loss year,

(i) 25% of the amount deducted, in respect of a specified pre-regime loss of the taxpayer in respect of the year, by the taxpayer under paragraph 111(1)(a) in computing its taxable income for the year,

(j) in respect of a corporation (referred to in this paragraph as the “affiliate”) that is a controlled foreign affiliate of the taxpayer at the end of an affiliate taxation year ending in the year — or that is a controlled foreign affiliate of a partnership, of which the taxpayer or a controlled foreign affiliate of the taxpayer is a member at any time, at the end of an affiliate taxation year ending in a fiscal period of the partnership — the additional amount that would be included in the taxpayer’s income, either under subsection 91(1) or because an amount would be included in the income of a partnership under that subsection, in respect of the affiliate’s foreign accrual property income for the affiliate taxation year, if the affiliate’s foreign accrual property income for the affiliate taxation year were increased by the amount determined by the formula

$$L \times M/N$$

where

L is the amount that, in computing the foreign accrual property income of the affiliate for the affiliate taxation year, is the prescribed amount for the description of **F** in the definition *foreign accrual property income* in subsection 95(1), in respect of a foreign accrual property loss of the affiliate for another affiliate taxation year (referred to in this paragraph as the “affiliate loss year”),

M is the lesser of

(i) the affiliate’s foreign accrual property loss for the affiliate loss year, and

(ii) the amount by which the affiliate’s relevant affiliate interest and financing expenses for the affiliate loss year (determined without regard to any amount or portion of an amount that is not deductible because of clause 95(2)(f.11)(ii)(D)), exceeds the total of all amounts, each of which is

(A) the affiliate’s relevant affiliate interest and financing revenues for the affiliate loss year, or

(B) an amount included under subclause 95(2)(f.11)(ii)(D)(II) in respect of the affiliate for the affiliate loss year, and

N is the affiliate's foreign accrual property loss for the affiliate loss year,

(k) the amount that would be the taxpayer's loss for the year, or that would be the taxpayer's share of the loss of a partnership of which the taxpayer is a member, if the taxpayer or partnership had no income or loss other than a loss that can reasonably be considered to be incurred by the taxpayer or the partnership in respect of activities funded, in whole or in part, by a borrowing (within the meaning of the definition *exempt interest and financing expenses*) that results in exempt interest and financing expenses of the taxpayer or the partnership;

(l) an amount deducted under subsection 127(5) or (6), 127.44(3) or 127.45(6) in respect of a property acquired in a preceding taxation year in computing the taxpayer's tax payable for a preceding taxation year to the extent that it

(i) is included in an amount determined under paragraph 13(7.1)(e), subparagraph 53(2)(c)(vi) or 53(2)(h)(ii) or for I in the definition "undepreciated capital cost" in subsection 13(21), and

(ii) was not included

(A) in computing the taxpayer's income for the year or a preceding taxation year, and

(B) under this paragraph in calculating the taxpayer's adjusted taxable income for a preceding taxation year; or

(m) an amount described in clause 12(1)(x)(i)(C) or subparagraph 12(1)(x)(ii) that is received by the taxpayer in the year to the extent that it

(i) reduces the cost or capital cost of a property,

(ii) is not included in computing the income of the taxpayer for the year under paragraph 12(1)(x), and

(iii) would be included in computing the income of the taxpayer for the year under paragraph 12(1)(x) if that paragraph were read without reference to its subparagraphs 12(1)(x)(vi) and (vii).

C is the total of all amounts each of which is

(a) the taxpayer's interest and financing revenues for the year,

(b) an amount included under subsection 13(1) in computing the taxpayer's income for the year,

(c) in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the following formula

$$O \times P$$

where

O is an amount that is included by the partnership under subsection 13(1) in computing its income or loss from the source, or the source in a particular place, for the fiscal period, and

P is the taxpayer's specified proportion, if the references in the definition *specified proportion* to "total income or loss" were read as "income or loss from the source, or the source in a particular place",

(d) an amount included under subsection 59(1) or (3.2) or paragraph 59.1(b) in computing the taxpayer's income for the year,

(e) in the case of a corporation

(i) 100/28 of the total of the amounts that would be deductible by it under subsection 126(1) from its tax for the year otherwise payable under this Part if those amounts were determined without reference to sections 123.3 and 123.4, or

(ii) the amount determined by multiplying the total of the amounts that would be deductible by it under subsection 126(2) from its tax for the year otherwise payable under this Part, if those amounts were determined without reference to section 123.4, by the relevant factor for the year,

(f) in the case of a trust, the amount determined by the following formula

$$Q \times (1/(R \times S))$$

where

Q is the total of the amounts deductible by it under subsection 126(1) or (2) from its tax for the year otherwise payable under this Part for the year,

R is the percentage (expressed as a decimal fraction) referred to in paragraph 122(1)(a) in respect of the year, and

S is 1 plus the percentage (expressed as a decimal fraction) referred to in subsection 120(1) in respect of the year,

(g) an amount included under section 110.5 in computing the taxpayer's taxable income for the year,

(h) an amount included under subsection 104(13) in computing the taxpayer's income for the year, except to the extent of any portion of the amount that

(i) has been designated under subsection 104(19) for the year, or

(ii) gives rise to a deduction under paragraph 94.2(3)(a) in computing the foreign accrual property income for an affiliate taxation year of an entity that is a controlled foreign affiliate of the taxpayer at the end of the affiliate taxation year,

(i) an amount of the taxpayer's taxable income for the year that is not, because of an Act of Parliament, subject to tax under this Part, or

(j) the amount that would be the taxpayer's income for the year, or that would be the taxpayer's share of the income of a partnership of which the taxpayer is a member, if the taxpayer or partnership had no income or loss other than income that can reasonably be considered to be earned by the taxpayer or the partnership in respect of activities funded, in whole or in part, by a borrowing (within the meaning of the definition *exempt interest and financing expenses*) that results in exempt interest and financing expenses of the taxpayer or the partnership. (*revenu imposable rajusté*)

affiliate taxation year of a controlled foreign affiliate of a taxpayer means the period for which the accounts of the affiliate have been ordinarily made up, but no such period may exceed 53 weeks. (*année d'imposition de la société affiliée*)

aggregate participating percentage has the same meaning as in subsection 91(1.3). (*pourcentage de participation total*)

cumulative unused excess capacity of a taxpayer for a particular taxation year means the total of all amounts each of which is

(a) the excess capacity of the taxpayer for the particular year, or

(b) the excess capacity of the taxpayer for any of the three immediately preceding taxation years, if the taxpayer's excess capacity for each of those years is determined according to the following rules:

(i) if the taxpayer has an amount of transferred capacity for any taxation year (referred to in this definition as the "transfer year") preceding the particular year,

(A) there are to be reductions to the taxpayer's excess capacity for the transfer year and the three taxation years immediately preceding the transfer year (each referred to in this subparagraph as a "relevant year") in a total amount equal to the total of all amounts each of which is an amount of transferred capacity of the taxpayer for the transfer year (referred to in this definition as the "total transferred capacity amount"), and

(B) the amount by which the taxpayer's excess capacity for a particular relevant year is to be reduced is equal to the lesser of

(I) the taxpayer's excess capacity for the particular relevant year, determined taking into consideration any reductions to that excess capacity under

1 this subparagraph, in respect of amounts of transferred capacity for years preceding the transfer year, and

2 subparagraph (ii), in respect of amounts of absorbed capacity for the transfer year and any years preceding the transfer year, and

(II) the amount, if any, by which the total transferred capacity amount for the transfer year exceeds the reductions, under this subparagraph in respect of that total transferred capacity amount, to the taxpayer's excess capacity for any relevant years preceding the particular relevant year; and

(ii) if the taxpayer has an amount of absorbed capacity for a taxation year (referred to in this definition as the "absorbed capacity year"),

(A) there are to be reductions to the taxpayer's excess capacity for the three taxation years immediately preceding the absorbed capacity year (each referred to in this subparagraph as a "relevant year") in a total amount equal to the amount of absorbed capacity for the absorbed capacity year, and

(B) the amount by which the taxpayer's excess capacity for a particular relevant year is to be reduced is equal to the lesser of

(I) the taxpayer's excess capacity for the particular relevant year, determined taking into account any reductions to that excess capacity under

1 subparagraph (i), in respect of amounts of transferred capacity for years preceding the absorbed capacity year, and

2 this subparagraph, in respect of amounts of absorbed capacity for years preceding the absorbed capacity year, and

(II) the amount, if any, by which the amount of absorbed capacity for the absorbed capacity year exceeds the reductions under this subparagraph in respect of that amount of absorbed capacity to the taxpayer's excess capacity for the relevant years preceding the particular relevant year. (*capacité excédentaire cumulative inutilisée*)

eligible group entity, in respect of a taxpayer resident in Canada, at any time, means a corporation, or a trust, resident in Canada

(a) that is, at that time, related (other than because of a right referred to in paragraph 251(5)(b)) to the taxpayer;

(b) that would, at that time, be affiliated with the taxpayer if section 251.1 were read without reference to the definition *controlled* in subsection 251.1(3);

(c) that is a trust in respect of which the taxpayer's interest in the trust is not a *fixed interest* (as defined in subsection 94(1)); or

(d) that is a beneficiary of the taxpayer, if the taxpayer is a trust, whose interest in the taxpayer is not a *fixed interest* (as defined in subsection 94(1)) (other than a beneficiary that is a registered charity, or a non-profit organization, with whom the taxpayer deals at arm's length). (*entité admissible du groupe*)

excess capacity of a taxpayer for a taxation year means

(a) if subsection 18.21(2) applies in respect of the taxpayer for the year, nil; and

(b) in any other case, the amount determined by the formula

$$A - B - C$$

where

A is the amount determined by the formula

$$D \times E + F$$

where

D is the ratio of permissible expenses of the taxpayer for the year,

E is the adjusted taxable income of the taxpayer for the year, and

F is the amount determined by the formula

$$G - H \times I$$

where

G is the interest and financing revenues of the taxpayer for the year,

H is the ratio of permissible expenses of the taxpayer for the year, and

I is the lesser of

(i) the amount by which the interest and financing revenues of the taxpayer for the year exceed the interest and financing expenses of the taxpayer for the year, and

(ii) either

(A) if the adjusted taxable income of the taxpayer for the year would, in the absence of section 257, be a negative amount, the absolute value of the negative amount, or

(B) in any other case, nil,

B is the interest and financing expenses of the taxpayer for the year, and

C is the amount deductible by the taxpayer under paragraph 111(1)(a.1) in the year. (*capacité excédentaire*)

excluded entity for a particular taxation year means

(a) a corporation that is throughout the particular year a Canadian-controlled private corporation in respect of which the amount determined for C in paragraph 125(5.1)(a) for the year is less than \$50,000,000;

(b) a particular taxpayer resident in Canada, if \$1,000,000 is not less than the amount determined by the formula

$$A - B$$

where

A is the total of all amounts, each of which is the interest and financing expenses or the exempt interest and financing expenses of

(i) the particular taxpayer for the particular taxation year, or

(ii) another taxpayer resident in Canada for a taxation year (referred to in this subparagraph as the “relevant taxation year”) ending in the particular taxation year, if the other taxpayer is an eligible group entity in respect of the particular taxpayer at the end of the relevant taxation year, and

B is the amount that would be determined for A if

(i) the reference in the description of A to “the interest and financing expenses or the exempt interest and financing expenses” were read as a reference to “the interest and financing revenues”, and

(ii) the interest and financing revenues of a financial institution group entity were excluded; or

(c) a taxpayer resident in Canada in respect of which the following conditions are met:

(i) all or substantially all of the businesses, if any, and all or substantially all of the undertakings and activities of

(A) the taxpayer are, throughout the particular year, carried on in Canada, and

(B) each eligible group entity in respect of the taxpayer are, throughout the eligible group entity's taxation year that ends in the particular year, carried on in Canada,

(ii) throughout the year, it is the case that

$$A \geq B$$

where

A is \$5,000,000

B is the greater of

(A) the total of all amounts, each of which is the amount at which the shares of the capital stock of a foreign affiliate of the taxpayer, or of a foreign affiliate of an eligible group entity in respect of the taxpayer, would be valued for the purpose of the balance sheet of the taxpayer or the eligible group entity if that balance sheet were prepared in accordance with generally accepted accounting principles used in Canada, other than any amount or portion of an amount that is already included under this clause because the value of the shares of the capital stock of a particular foreign affiliate reflects the value of shares of the capital stock of another foreign affiliate that is owned, directly or indirectly, by the particular foreign affiliate, or

(B) the total of all amounts, each of which is the fair market value of all property of a foreign affiliate of the taxpayer or a foreign affiliate of an eligible group entity in respect of the taxpayer, other than a property that is shares of the capital stock of another foreign affiliate of the taxpayer or of an eligible group entity in respect of the taxpayer;

(iii) no person or partnership is, at any time in the particular year,

(A) a **specified shareholder** or a **specified beneficiary** (both as defined in subsection 18(5)) of the taxpayer, or of any eligible group entity in respect of the taxpayer, that is not resident in Canada, or

(B) a partnership more than 50% of the fair market value of all interests in which can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by non-resident persons, if the property of the partnership includes,

(I) if the taxpayer or the eligible group entity in respect of the taxpayer is a corporation, shares, or a right to acquire shares, of the capital stock of the taxpayer or an eligible group entity in respect of the taxpayer that, either alone or together with shares, or rights to acquire shares, held by persons or partnerships with whom the partnership does not deal at arm's length,

1 provide 25% or more of the votes that could be cast at an annual meeting of the shareholders of the corporation, or

2 have 25% or more of the fair market value of all capital stock in the corporation, or

(II) if the taxpayer or the eligible group entity in respect of the taxpayer is a trust, an interest, or a right to acquire an interest, as a beneficiary in the taxpayer or an eligible group entity in respect of the taxpayer that, either alone or together with interests, or rights to acquire interests, held by persons or partnerships with whom the partnership does not deal at arm's length, has 25% or more of the fair market value of all interests as a beneficiary in the trust, and

(iv) all or substantially all of the interest and financing expenses of the taxpayer and of each eligible group entity in respect of the taxpayer for the particular year are paid or payable to persons or partnerships that are not, at any time in the particular year, tax-indifferent and do not deal at arm's length with the taxpayer or any eligible group entity in respect of the taxpayer. (*entité exclue*)

excluded interest, for a taxation year or fiscal period, means an amount of interest or a lease financing amount, if

- (a)** the amount is paid in, or payable in or in respect of, the year or period by a corporation or partnership (in this definition referred to as the “payer”) to another corporation or partnership (in this definition referred to as the “payee”) in respect of a debt or a lease in respect of a particular property;
- (b)** throughout the period during which the amount accrued (in this definition referred to as the “relevant period”)
 - (i)** if the amount is interest, the debt is owed by the payer to the payee, or
 - (ii)** if the amount is a lease financing amount, the lease is between the payer and payee;
- (c)** where the payer is not a financial institution group entity, the payee is not a financial institution group entity;
- (d)** throughout the relevant period and at the time of payment
 - (i)** each of the payer and payee is
 - (A)** a taxable Canadian corporation, or
 - (B)** a partnership, no member of which is a natural person, a trust or a corporation that is not a taxable Canadian corporation, and
 - (ii)** one of the following conditions is met:
 - (A)** if the payee is a partnership, all the members of the payee (other than another partnership) are eligible group entities in respect of
 - (I)** if the payer is a partnership, each member of the payer (other than another partnership), or
 - (II)** in any other case, the payer, or
 - (B)** if the payee is not a partnership, the payee is an eligible group entity in respect of
 - (I)** if the payer is a partnership, each member of the payer (other than another partnership), or
 - (II)** in any other case, the payer; and
- (e)** the payer — or, if the payer is a partnership, each member of the payer — and the payee — or, if the payee is a partnership, each member of the payee — file with the Minister, in respect of the year or period of both the payer and the payee, a joint election in writing in prescribed manner under this paragraph that
 - (i)** specifies
 - (A)** the amount of the interest or lease financing amount,
 - (B)** if the amount is interest, the amounts outstanding, at the beginning and end of the relevant period, as or on account of the debt in respect of which this paragraph applies, and
 - (C)** if the amount is a lease financing amount, the fair market value of the particular property at the time the lease began, and
 - (ii)** is filed on or before the earliest of the filing-due date of
 - (A)** the payer for its year,
 - (B)** the payee for its year, and
 - (C)** if the payer or the payee is a partnership, any member of the payer or payee for the member’s taxation year that includes the end of the fiscal period of the payer or the payee, as the case may be. (*intérêts exclus*)

excluded lease for a taxation year of a taxpayer means a lease

- (a) to which the rules in subsection 16.1(1) apply;
- (b) that would not be considered to be a lease for a term of more than one year for purposes of paragraph (b) of the definition *specified leasing property* in subsection 1100(1.11) of the *Income Tax Regulations*; or
- (c) that is in respect of property
 - (i) that would not be considered, at the time the lease was entered into, to have a fair market value in excess of \$25,000 for purposes of paragraph (c) of that definition, or
 - (ii) that would be considered, at all times in the taxation year, exempt property for purposes of subsection 1100(1.13) of the *Income Tax Regulations*. (*bail exclu*)

exempt interest and financing expenses of a taxpayer for a taxation year means the total of all amounts, each of which would, if the description of A in the definition *interest and financing expenses* were read without reference to “exempt interest and financing expenses”, be included in interest and financing expenses of the taxpayer for that year, and that is incurred in respect of a borrowing or other financing (referred to in this definition as the “borrowing”), if

- (a) the taxpayer or a partnership of which the taxpayer is a member entered into an agreement with a public sector authority to design, build and finance, or to design, build, finance, maintain and operate property that the public sector authority, or another public sector authority, owns or has a leasehold interest in or right to acquire;
- (b) the borrowing was entered into in respect of the agreement;
- (c) it can reasonably be considered that all or substantially all of the amount is directly or indirectly borne by a public sector authority referred to in paragraph (a); and
- (d) the amount was paid or payable to
 - (i) a person that deals at arm's length with the taxpayer or the partnership of which the taxpayer is a member, or
 - (ii) a particular person that does not deal at arm's length with the taxpayer or the partnership of which the taxpayer is a member if it may reasonably be considered that all or substantially all of the amount paid or payable to the particular person was paid or payable by the particular person to a person that deals at arm's length with the taxpayer or the partnership of which the taxpayer is a member. (*dépenses d'intérêts et de financement exonérées*)

financial holding corporation, for a taxation year, means a corporation (other than a corporation described in any of paragraphs (a) to (f) of the definition *financial institution group entity*) if, throughout the year,

- (a) the fair market value of the capital stock of the corporation is primarily attributable to any combination of shares or indebtedness of one or more entities described in any of paragraphs (a) to (f) of the definition *financial institution group entity* that are controlled by the corporation; or
- (b) the corporation is incorporated under the *Insurance Companies Act* and shares of the capital stock of the corporation are listed on a designated stock exchange. (*société de portefeuille financière*)

financial institution group entity, for a taxation year, means a taxpayer that at any time in the year is

- (a) a bank;
- (b) a credit union;
- (c) an insurance corporation;
- (d) authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public;

- (e) an entity whose principal business consists of one or more of
 - (i) the lending of money to persons with whom the entity deals at arm's length,
 - (ii) the purchasing of debt obligations issued by persons with whom the entity deals at arm's length, or
 - (iii) activities which principally give rise to amounts described in paragraphs (a) to (d) of variable A in the definition *interest and financing revenues* and are principally conducted with persons with whom the entity deals at arm's length;
- (f) an entity that is
 - (i) an eligible group entity in respect of an entity described in any of paragraphs (a) to (e), and
 - (ii) authorized under provincial securities laws to engage in, and primarily engages in, the business of
 - (A) dealing in securities, or
 - (B) providing portfolio management, investment advice, fund administration or fund management; or
 - (g) a particular entity (other than a financial holding corporation) that is an eligible group entity in respect of any entity described in any of paragraphs (a) to (f) if all or substantially all of the activities of the particular entity are ancillary to the activities or business carried on by one or more entities described in paragraphs (a) to (f) that are eligible group entities in respect of the particular entity. (*entité du groupe d'institutions financières*)

fixed interest commercial trust at any time means a trust resident in Canada, if at that time

- (a) the only beneficiaries that may for any reason receive, at or after that time and directly from the trust, any of the income or capital of the trust are beneficiaries that hold fixed interests (as defined in subsection 94(1)) in the trust; and
- (b) any of the conditions in clauses (h)(ii)(A) to (C) in the definition *exempt foreign trust* in subsection 94(1) is met. (*fiducie commerciale à participation fixe*)

foreign accrual property loss of a foreign affiliate for an affiliate taxation year has the meaning assigned by subsection 5903(3) of the *Income Tax Regulations*. (*perte étrangère accumulée, relative à des biens*)

interest and financing expenses of a taxpayer for a particular taxation year means the amount determined by the formula

$$A - B$$

where

- A** is the total of all amounts (other than an amount that is included in exempt interest and financing expenses), each of which is
 - (a) an amount that
 - (i) is paid in, or payable in or in respect of, a year as, on account of, in lieu of payment of or in satisfaction of, interest (other than excluded interest for the particular year or an amount that is deemed to be interest under subsection 137(4.1)),
 - (ii) would, in the absence of this section, be deductible (other than under a provision referred to in subparagraph (c)(i)) by the taxpayer in computing its income for the particular year, and
 - (iii) is not described in any other paragraph in this definition;
 - (b) an amount that, in the absence of this section and on the assumption that it is not deductible under another provision of this Act (other than any of the provisions referred to in subparagraph (c)(i)), would be deductible in computing the taxpayer's income for the particular year under any of subparagraphs 20(1)(e)(ii) to (ii.2) and paragraphs 20(1)(e.1), (e.2) and (f);

(c) the portion of an amount, if

(i) the amount, in the absence of this section, would be deductible in computing the taxpayer's income for the particular year and is claimed by the taxpayer under paragraph 20(1)(a) or subsections 66(4), 66.1(2) or (3), 66.2(2), 66.21(4), 66.4(2), 66.7(1), (2), (2.3), (3), (4), or (5), and

(ii) the portion can reasonably be considered to be attributable to an amount paid or payable on or after February 4, 2022 that either

(A) is described in subparagraph (a)(i), or

(B) would otherwise have been deductible in a taxation year under a provision referred to in paragraph (b), but for the application of another provision of this Act;

(d) the portion of an amount that would, in the absence of this section, be deductible in computing the taxpayer's income for the particular year under subsection 20(16), to the extent that the portion can reasonably be considered to be described in subparagraph (c)(ii);

(e) an amount that is paid or payable by the taxpayer in a year or that is a loss or a capital loss of the taxpayer for a year, as the case may be, under or as a result of an agreement or arrangement, if the following conditions are met:

(i) the amount would, in the absence of this section

(A) be deductible (other than under subparagraph 20(1)(e)(i)) in computing the taxpayer's income for the particular year, or

(B) in the case of a capital loss, reduce the amount determined under paragraph 3(b) in respect of the taxpayer or be deductible in computing the taxpayer's taxable income for the particular year (except to the extent it has already been included under this paragraph for a previous year),

(ii) the agreement or arrangement is entered into as or in relation to a borrowing or other financing that the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer enters into, whether currently or in the future, and absolutely or contingently, and

(iii) the amount can reasonably be considered to increase (or be part of) the cost of funding with respect to the borrowing or other financing (including as a result of any hedge of the cost of funding or of the borrowing or other financing) of the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer,

(f) a particular amount that

(i) is in respect of an agreement or arrangement that gives rise to, or can reasonably be expected to give rise to, an amount that

(A) is included in computing a taxpayer's interest and financing expenses for a taxation year under paragraph (e), or

(B) reduces the taxpayer's interest and financing expenses for a taxation year under the description of B,

(ii) would, in the absence of this section, be deductible by the taxpayer in computing its income for the particular year,

(iii) is not deductible under any of the provisions listed in paragraph (b), and

(iv) is an expense or fee payable under the agreement or arrangement or an expense that is incurred in contemplation of, in the course of entering into or in relation to, the agreement or arrangement;

(g) a lease financing amount (other than in respect of an excluded lease for the particular year) that

(i) would, in the absence of this section, be deductible by the taxpayer in computing its income for the particular year, and

(ii) is not excluded interest for the particular year,

(h) in respect of the income or loss of a partnership, for a fiscal period that ends in the particular year, from any source or from sources in a particular place, an amount determined by the formula

$$C \times D - E - F$$

where

C is the total of all amounts, each of which is an amount that

(i) is deductible by the partnership in computing its income or loss from the source, or the source in a particular place, for a fiscal period, and that would be described in any of paragraphs (a) to (g) if the references to the taxpayer were read as references to the partnership, or

(ii) would be included under paragraph (j) in determining the interest and financing expenses of the partnership for the purposes of determining its income or loss from the source, or the source in a particular place, for the fiscal period, if the partnership were a taxpayer for the purposes of this section,

D is the taxpayer's specified proportion, if the references in the definition *specified proportion* to "total income or loss" were read as "income or loss from the source, or the source in a particular place",

E is the amount, if any, included in computing the taxpayer's income under paragraph 12(1)(l.1) in respect of the amount referred to in the description of C, and

F is the portion of an amount determined for C that can reasonably be considered to not be deductible in computing the taxpayer's income for the particular year, and to not be included in computing the taxpayer's non-capital loss for the particular year, because of subsection 96(2.1);

(i) the portion of an amount that, in the absence of this section, would be deductible in computing the taxpayer's taxable income for the particular year and is claimed by the taxpayer under paragraph 111(1)(e) in respect of a partnership of which the taxpayer is a member that can reasonably be considered to be attributable to an amount referred to in the description of F in paragraph (h) in respect of a fiscal period of the partnership ending in another taxation year of the taxpayer; or

(j) in respect of a corporation that is a controlled foreign affiliate of the taxpayer at the end of an affiliate taxation year ending in the particular year, an amount determined by the formula

$$G \times H$$

where

G is the affiliate's relevant affiliate interest and financing expenses for the affiliate taxation year, and

H is the taxpayer's specified participating percentage in respect of the affiliate for the affiliate taxation year; and

B is the total of all amounts, each of which is

(a) an amount received or receivable (other than as a dividend or in respect of exempt interest and financing expenses) by the taxpayer in a year, or a gain of the taxpayer for a year, as the case may be, under or as a result of an agreement or arrangement to the extent that

(i) the amount is included in computing the taxpayer's income for the particular year,

(ii) the agreement or arrangement is entered into in relation to a borrowing or other financing of the taxpayer or of a person or partnership that does not deal at arm's length with the taxpayer to hedge the cost of funding or the borrowing or other financing,

(iii) the amount can reasonably be considered to reduce the cost of funding with respect to the borrowing or other financing of the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer, and

(iv) the amount cannot reasonably be considered to be excluded, reduced, offset or otherwise effectively sheltered from tax under this Part because an amount is deductible

(A) under any of subsections 20(11) to (12.1), 126(1) or (2), and

(B) in respect of income or profits tax paid to a country other than Canada that

(I) can reasonably be considered to have been paid in respect of the amount, and

(II) is not a tax substantially similar to tax under subsection 212(1), or

(b) in respect of the income or loss of a partnership, for a fiscal period that ends in the particular year, from any source or from sources in a particular place, an amount determined by the formula

$$I \times J$$

where

I is an amount that would be described in paragraph (a) if

(i) the references to the taxpayer in that paragraph were read as references to the partnership, and

(ii) the reference in subparagraph (a)(i) to “the taxpayer’s income for the particular year” were read as “the partnership’s income or loss from the source, or the source in a particular place, for a fiscal period”, and

J is the taxpayer’s specified proportion, if the references in the definition *specified proportion* to “total income or loss” were read as “income or loss from the source, or the source in a particular place”. (*dépenses d’intérêts et de financement*)

interest and financing revenues of a taxpayer for a taxation year means the amount determined by the formula

$$A - B$$

where

A is the total of all amounts (other than any amount included under B of the definition *interest and financing expenses*), each of which is

(a) an amount received or receivable as, on account of, in lieu of payment or in satisfaction of, interest (other than excluded interest for the year, an amount that is deemed to be interest under subsection 137(4.1) or any amount described in any other paragraph in this definition) that is included in computing the taxpayer’s income for the year,

(b) an amount that is included in computing the taxpayer’s income for the year because of subsection 12(9) or section 17.1 (other than any amount described in any other paragraph in this definition),

(c) a fee or similar amount in respect of a guarantee, or similar credit support, provided by the taxpayer for the payment of any amount on a debt obligation owing by another person or partnership that is included in computing the taxpayer’s income for the year (other than any amount described in any other paragraph in this definition),

(d) an amount received or receivable (other than as a dividend) by the taxpayer in the year, or a gain of the taxpayer for the year, as the case may be, under or as a result of an agreement or arrangement, if the following conditions are met:

(i) the amount is included in computing the taxpayer’s income for the year,

(ii) the agreement or arrangement is entered into as or in relation to a loan or other financing owing to or provided by the taxpayer or a person or partnership that does not deal at arm’s length with the taxpayer, and

(iii) the amount can reasonably be considered to increase (or be part of) the return of the taxpayer or a person or partnership that does not deal at arm’s length with the taxpayer with respect to the loan or other financing (including as a result of any hedge of the return or of the loan or other financing);

(e) a lease financing amount (other than in respect of a lease that would be an excluded lease for the year, if the definition *excluded lease* were read without regard to its paragraph (a)) that

(i) is included in computing the taxpayer’s income for the year, and

(ii) is not excluded interest for the year,

(f) in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the following formula:

$$C \times D$$

where

- C** is the total of all amounts, each of which is an amount that
- (i)** is included by the partnership in computing its income or loss from the source, or the source in a particular place, for a fiscal period and that would be described in paragraphs (a) to (e) if the references to the taxpayer were read as references to the partnership, or
 - (ii)** would be included under paragraph (g) in determining the interest and financing revenues of the partnership for the purposes of determining its income or loss from the source, or the source in a particular place, for the fiscal period, if the partnership were a taxpayer for the purposes of this section, and
- D** is the taxpayer's specified proportion, if the references in the definition *specified proportion* to "total income or loss" were read as "income or loss from the source, or the source in a particular place", or
- (g)** in respect of a corporation that is a controlled foreign affiliate of the taxpayer at the end of an affiliate taxation year ending in the year, an amount determined by the formula

$$E \times F - G$$

where

- E** is the affiliate's relevant affiliate interest and financing revenues for the affiliate taxation year,
- F** is the taxpayer's specified participating percentage in respect of the affiliate for the affiliate taxation year, and
- G** is an amount (other than any portion of the amount that is in respect of income tax paid under subsection 212(1)) that is deducted under subsection 91(4) in computing the taxpayer's income for any taxation year in respect of foreign accrual tax (within the meaning of subsection 95(1)) applicable to an amount that is included in the taxpayer's income under subsection 91(1) in respect of the affiliate's relevant affiliate interest and financing revenues for the affiliate taxation year; and

- B** is the total of all amounts, each of which is
- (a)** an amount paid or payable by the taxpayer in a year, or a loss or a capital loss of the taxpayer for a year, as the case may be, under or as a result of an agreement or arrangement, to the extent that
 - (i)** the amount
 - (A)** is deductible in computing the taxpayer's income for the year, or
 - (B)** in the case of a capital loss, reduces the amount determined under paragraph 3(b) in respect of the taxpayer or is deductible in computing the taxpayer's taxable income for the year (except to the extent it has already been taken into account in determining an amount under this paragraph for a previous year);
 - (ii)** the agreement or arrangement is entered into in relation to a loan or other financing owing to or provided by the taxpayer, or a person or partnership that does not deal at arm's length with the taxpayer, to hedge the return in respect of the loan or other financing, and
 - (iii)** the amount can reasonably be considered to reduce the return of the taxpayer, or a person or partnership that does not deal at arm's length with the taxpayer, in respect of the loan or other financing,
 - (b)** in respect of the income or loss of a partnership, for a fiscal period that ends in the year, from any source or from sources in a particular place, an amount determined by the formula

$$H \times I$$

where

- H** is an amount that would be described in paragraph (a) if
 - (i)** the references to the taxpayer in that paragraph were read as references to the partnership, and
 - (ii)** the reference in subparagraph (a)(i) to "the taxpayer's income for the year" were read as "the partnership's income or loss from the source, or the source in a particular place, for a fiscal period", and
- I** is the taxpayer's specified proportion, if the references in the definition *specified proportion* to "total income or loss" were read as "income or loss from the source, or the source in a particular place", or

(c) the portion of any amount included under A (referred to in this paragraph as the “subject amount”) that can reasonably be considered to be excluded, reduced, offset or otherwise effectively sheltered from tax under this Part because an amount is deductible

(i) under any of subsections 20(11) to (12.1), 126(1) or (2), and

(ii) in respect of income or profits tax paid to a country other than Canada that

(A) can reasonably be considered to have been paid in respect of the subject amount, and

(B) is not a tax substantially similar to tax under subsection 212(1). (*revenus d'intérêts et de financement*)

lease financing amount means an amount that is the portion of a particular payment in respect of a particular lease entered into by a taxpayer that would be considered to be on account of interest if

(a) the lessee had received a loan at the time the particular lease began and in a principal amount equal to the fair market value at that time of the property that is the subject of the particular lease;

(b) interest had been charged on the principal amount of the loan outstanding from time to time at the rate — determined in accordance with section 4302 of the *Income Tax Regulations* — in effect at the time described in paragraph (a), compounded semi-annually not in advance; and

(c) the particular payment was a blended payment of principal and interest, calculated in accordance with paragraph (b), on the loan applied firstly on account of interest on principal, secondly on account of interest on unpaid interest, and thirdly on account of principal. (*montant du crédit-bail*)

public sector authority means His Majesty in right of Canada, His Majesty in right of a province, an entity referred to in any of paragraphs 149(1)(c) to (d.6) or a registered charity that is a *school authority, public college, university, or hospital authority* (each having the same meaning as in subsection 123(1) of the *Excise Tax Act*). (*administration du secteur public*)

ratio of permissible expenses of a taxpayer for a taxation year means the percentage that is

(a) if the taxpayer's taxation year begins on or after October 1, 2023, and before January 1, 2024, 40%, other than for the purpose of determining the taxpayer's cumulative unused excess capacity for any taxation year that begins on or after January 1, 2024, and

(b) if the taxpayer's taxation year begins on or after January 1, 2024, and for the purposes referred to in paragraph (a) for which 40% is not the applicable percentage, 30%. (*ratio des dépenses admissibles*)

received capacity of a taxpayer that is a transferee for a taxation year, means an amount of received capacity of the taxpayer for the year under subsection (4). (*capacité reçue*)

relevant affiliate interest and financing expenses of a controlled foreign affiliate of a taxpayer for an affiliate taxation year means, subject to subsection (19), the total of all amounts (other than an amount that is deductible in computing any income or loss of the affiliate that is included in computing the affiliate's income or loss from an active business because of paragraph 95(2)(a) or an amount that is described in clause 95(2)(a)(ii)(D) and treated as nil for the purposes of determining an amount for A or D in the formula in the definition *foreign accrual property income* in subsection 95(1)), each of which would be the affiliate's interest and financing expenses (determined without regard to paragraph (j) of the description of A in the definition *interest and financing expenses*) for the affiliate taxation year for the purposes of determining, in respect of the taxpayer for the affiliate taxation year, each amount referred to in subparagraph 95(2)(f)(i) or (ii), if

(a) the references in the definition *interest and financing expenses* to “in the absence of this section” were read as references to “in the absence of clause 95(2)(f.11)(ii)(D)”; and

(b) clause 95(2)(f.11)(ii)(A) were read without regard to the reference to subsection 18.2(2). (*dépenses d'intérêts et de financement de la société affiliée pertinentes*)

relevant affiliate interest and financing revenues of a controlled foreign affiliate of a taxpayer for an affiliate taxation year means, subject to subsection (19), the total of all amounts (other than an amount included in computing the affiliate's income or loss from an active business under paragraph 95(2)(a) or (2.44)(b)), each of which would be the affiliate's interest and financing revenues (determined without regard to paragraph (g) of the description of A in the definition *interest and financing revenues*) for the affiliate taxation year for the purposes of determining, in respect of the taxpayer for the affiliate taxation year, each amount referred to in subparagraph 95(2)(f)(i) or (ii), if clause 95(2)(f.11)(ii)(A) were read without regard to the reference to subsection 18.2(2). (*revenus d'intérêts et de financement de la société affiliée pertinents*)

relevant inter-affiliate interest, of a controlled foreign affiliate of a taxpayer for an affiliate taxation year, means an amount of interest that

(a) is paid or payable by the affiliate to, or received or receivable by the affiliate from, a controlled foreign affiliate (referred to in this definition as the "other affiliate") of

(i) the taxpayer, or

(ii) a taxpayer that is an eligible group entity in respect of the taxpayer; and

(b) would, in the absence of subsection (19), be included in

(i) if the amount is paid or payable by the affiliate, the affiliate's relevant affiliate interest and financing expenses for the affiliate taxation year and the other affiliate's relevant affiliate interest and financing revenues for an affiliate taxation year, or

(ii) if the amount is received or receivable by the affiliate, the affiliate's relevant affiliate interest and financing revenues for the affiliate taxation year and the other affiliate's relevant affiliate interest and financing expenses for an affiliate taxation year. (*intérêts pertinents entre sociétés affiliées*)

special purpose loss corporation, for a taxation year, means a particular corporation that

(a) is an eligible group entity in respect of a financial holding corporation to which the particular corporation has interest paid or payable in the year;

(b) is formed or exists solely for the purpose of generating a loss of the particular corporation; and

(c) would, in the absence of this section, have a loss for the year that is, or will be, utilized by a financial institution group entity that is an eligible group entity in respect of the particular corporation. (*société à usage déterminé ayant subi des pertes*)

specified participating percentage of a taxpayer in respect of a controlled foreign affiliate of the taxpayer for an affiliate taxation year, means the percentage that would be the taxpayer's aggregate participating percentage, determined without regard to clause 95(2)(f.11)(ii)(D), in respect of the affiliate for the affiliate taxation year, if the definition *participating percentage* in subsection 95(1) were read without reference to

(a) its paragraph (a); and

(b) the portion of its paragraph (b) before its subparagraph (b)(i). (*pourcentage de participation déterminé*)

specified pre-regime loss, of a taxpayer in respect of a taxation year, means the taxpayer's non-capital loss for a preceding taxation year, if

(a) the preceding year ends before February 4, 2022;

(b) the taxpayer files with the Minister, in respect of the loss, an election in writing in prescribed manner under this definition;

(c) the election specifies the following amounts:

- (i) the loss,
- (ii) each amount deducted, in respect of the loss, by the taxpayer under paragraph 111(1)(a) in computing its taxable income
 - (A) for the year, and
 - (B) each taxation year that precedes the year, and
- (iii) the taxpayer's adjusted taxable income for the year; and
- (d) the election is filed on or before the filing-due date of the taxpayer for the year. (*perte antérieure au régime déterminée*)

tax-indifferent means a person or partnership that is

- (a) a person exempt from tax under section 149;
- (b) a non-resident person;
- (c) a partnership more than 50% of the fair market value of all interests in which can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraph (a) or (b); or
- (d) a trust resident in Canada if more than 50% 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 paragraph (a) or (b). (*indifférent relativement à l'impôt*)

taxpayer does not include a natural person or a partnership. (*contribuable*)

transaction includes an arrangement or event. (*opération*)

transferred capacity of a taxpayer that is a transferor for a taxation year, means an amount of transferred capacity of the taxpayer for the year under subsection (4). (*capacité transférée*)

Excessive interest and financing expenses limitation

(2) Notwithstanding any other provision of this Act, in computing the income for a taxation year of a taxpayer (other than an excluded entity for the year) from a business or property or the taxable income of the taxpayer for the year, no deduction shall be made in respect of any amount that is described in any of paragraphs (a) to (g) or (i) of the description of A in the definition *interest and financing expenses* in subsection (1) that would, in the absence of this section, be deductible in computing that income or taxable income to the extent of the proportion of that amount that is determined by the formula:

$$(A - (B + C + D + E))/F$$

where

A is the taxpayer's interest and financing expenses for the year,

B is

- (a) if subsection 18.21(2) applies in respect of the taxpayer for the year, the amount determined in respect of the taxpayer for the year under that subsection; and
- (b) in any other case, the amount determined by the formula

$$G \times H$$

where

G is the taxpayer's ratio of permissible expenses for the year, and

- H** is the taxpayer's adjusted taxable income for the year,
- C** is the taxpayer's interest and financing revenues for the year,
- D** is the amount by which the total of all amounts each of which is an amount of received capacity of the taxpayer for the year, as determined under subsection (4), exceeds the total amount deductible under paragraph 111(1)(a.1) for the year,
- E** is the amount of the taxpayer's absorbed capacity for the year, and
- F** is
 - (a)** if no amount is included in the taxpayer's interest and financing expenses for the year under paragraph (j) of the description of A of that definition, or under paragraph (h) of the description of A of that definition in respect of a controlled foreign affiliate of a partnership of which the taxpayer is a member, the amount determined for A in that definition for the taxpayer for the year; or
 - (b)** in any other case, the amount that would be determined for A in the definition *interest and financing expenses* for the taxpayer for the year if the reference to "the affiliate's interest and financing expenses" in the definition *relevant affiliate interest and financing expenses* were read as a reference to "an amount determined for A in the definition *interest and financing expenses* for the affiliate".

Amount deemed deducted

(3) All or any portion, of a particular amount described in paragraph (c) or (d) of the description of A in the definition *interest and financing expenses*, that would, in the absence of subsection (2), have been deducted in computing the income of a taxpayer for a taxation year but that is not deductible because of subsection (2), is deemed to have been deductible and to have been deducted in the year for purposes of determining, in respect of any taxpayer at any time, such of the following amounts to which the particular amount relates

- (a)** *total depreciation* allowed for property of a prescribed class, as defined in subsection 13(21);
- (b)** the amount the taxpayer may deduct under subsection 66(4);
- (c)** *cumulative Canadian exploration expense*, as defined in subsection 66.1(6);
- (d)** *cumulative Canadian development expense*, as defined in subsection 66.2(5);
- (e)** *cumulative foreign resource expense* in respect of a country, as defined in subsection 66.21(1);
- (f)** *cumulative Canadian oil and gas property expense*, as defined in subsection 66.4(5); or
- (g)** the amount the taxpayer may deduct under subsections 66.7(1), (2), (2.3), (3), (4) or (5).

Transfer of cumulative unused excess capacity

(4) For the purposes of this section, a taxpayer and another taxpayer (referred to in this section as the "transferor" and the "transferee", respectively) may jointly elect in prescribed form to designate an amount equal to all or a portion of the transferor's cumulative unused excess capacity, and that amount is an amount of transferred capacity of the transferor for a taxation year and an amount of received capacity of the transferee for a taxation year, if

- (a)** the taxation year of the transferor ends in the taxation year of the transferee;
- (b)** each of the transferor and the transferee is
 - (i)** a taxable Canadian corporation or a fixed interest commercial trust throughout its taxation year, and
 - (ii)** an eligible group entity in respect of the other at the end of its taxation year;
- (c)** where the transferor is a financial institution group entity or a financial holding corporation for its taxation year, the transferee is, for its taxation year,

- (i) a financial institution group entity,
 - (ii) a financial holding corporation, or
 - (iii) a special purpose loss corporation;
- (d) the election or amended election
- (i) specifies the amount of the transferred capacity, and
 - (ii) is filed with the Minister by the transferor
 - (A) on or before the later of the filing-due date of
 - (I) the transferor for its taxation year, and
 - (II) the transferee for its taxation year, or
 - (B) on or before the day that is 90 days after the day of sending of
 - (I) a notice of assessment of tax payable under this Part by the transferor or the transferee for their respective taxation years, or
 - (II) a notification that no tax is payable under this Part by the transferor or the transferee for their respective taxation years;
- (e) the total of all amounts each of which would, if this subsection were read without reference to this paragraph, be an amount of transferred capacity of the transferor for its taxation year in respect of any transferee, does not exceed the transferor's cumulative unused excess capacity for the year;
- (f) if the transferee is a financial holding corporation and the transferor is a financial institution group entity, the following condition is met:

$$A \geq B$$

where

- A** is the total of all amounts, each of which is an amount that is included in computing the income of the financial holding corporation for its taxation year in respect of excluded interest, the payer of which is, for the taxation year of the payer in which the interest is payable,
- (i) a financial institution group entity, or
 - (ii) a special purpose loss corporation, if the amount gives rise to a loss of the special purpose loss corporation that is, or will be, utilized solely by a financial institution group entity, and
- B** is the total of all amounts, each of which would, in the absence of this paragraph, be an amount that is both
- (i) received capacity of the financial holding corporation for its taxation year, and
 - (ii) transferred capacity of a financial institution group entity for one of its taxation years;

- (g) if the transferee is a special purpose loss corporation and the transferor is a financial institution group entity, the following condition is met:

$$C \geq D$$

where

- C** is the total of all amounts, each of which is an amount that
- (i) would, in the absence of this section, be deductible in computing the income of the special purpose loss corporation for its taxation year,

- (ii) is paid or payable to a financial holding corporation,
 - (iii) meets the conditions of paragraphs (a) to (d) of the definition *excluded interest*, and
 - (iv) would, in the absence of this section, give rise to a loss that is, or will be, utilized solely by a financial institution group entity, and
- D is the total of all amounts, each of which would, in the absence of this paragraph, be an amount that is both
- (i) received capacity of the special purpose loss corporation for its taxation year, and
 - (ii) transferred capacity of a financial institution group entity for one of its taxation years;
- (h) an amended election has not been filed in accordance with this section;
- (i) where the election is an amended election,
- (i) the following conditions are met:
 - (A) in the absence of any assessment, the condition in paragraph (e) would be met in respect of a prior election under this subsection made by the transferor and transferee for their respective taxation years, and
 - (B) subsection (9) does not apply to a tax benefit in respect of a prior election for the taxation year of the transferor or transferee, or
 - (ii) the Minister grants permission to amend the prior election under subsection (5); and
- (j) the transferee files an information return in accordance with subsection (6) for the calendar year in which the transferee's taxation year ends.

Late or amended election

- (5) The Minister may extend the time for making an election, or grant permission to amend an election, under subsection (4) if
- (a) the transferor and the transferee demonstrate to the satisfaction of the Minister that
 - (i) the transferor, the transferee and each other eligible group entity in respect of the transferor and transferee made reasonable efforts to determine all amounts that may reasonably be considered relevant in making the election, and
 - (ii) the election or amended election, as the case may be, is filed as soon as circumstances permit; and
 - (b) in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the election to be made or amended.

Summary – cumulative unused excess capacity transfers

- (6) If one or more elections are filed under subsection (4), in which amounts are designated as received capacity of a particular transferee for a taxation year ending in a calendar year, the particular transferee shall file with the Minister for the calendar year an information return in prescribed form within six months after the end of the calendar year in respect of
- (a) each such election; and
 - (b) each election filed under subsection (4) for a taxation year ending in the calendar year, by any other transferee that is an eligible group entity in respect of the particular transferee at the end of the other transferee's taxation year.

Summary – filing by designated filer

- (7) For the purposes of this section, if any taxpayer is required to file an information return for a calendar year under subsection (6), the taxpayer is deemed to have filed the information return if

(a) an information return under subsection (6) is filed for the calendar year by any other taxpayer (referred to in this subsection as the “designated filer” in respect of the taxpayer for the year) that is an eligible group entity in respect of the taxpayer at the end of the taxpayer’s taxation year ending in the calendar year; and

(b) the taxpayer jointly elects, with each other transferee described in paragraph (6)(b), to designate under this paragraph the designated filer to be a designated filer in respect of the taxpayer and each other transferee for the calendar year.

Assessment

(8) If an election or an amended election has been made under subsection (4), the Minister shall, notwithstanding subsections 152(4) and (5), assess or reassess the tax, interest or penalties payable under this Act by any taxpayer for any relevant taxation year as is necessary to give effect to the election or amended election.

Anti-avoidance — group status

(9) If, at any time, a particular taxpayer is, becomes or ceases to be an eligible group entity, in respect of another taxpayer, a financial institution group entity or a financial holding corporation and it may reasonably be considered, having regard to all the circumstances, that one of the main purposes of the particular taxpayer being, becoming or ceasing to be an eligible group entity, in respect of the other taxpayer, a financial institution group entity or a financial holding corporation is to enable any taxpayer to obtain a tax benefit (within the meaning of subsection 245(1)), the particular taxpayer is deemed not to be, to have become, or to remain, as the case may be, an eligible group entity, in respect of the other taxpayer, a financial institution group entity or a financial holding corporation, as the case may be, at that time.

Benefits conferred

(10) For the purposes of this Part, if a transferor and a transferee file an election (including an amended election) under subsection (4), no benefit is considered to have been conferred on the transferee as a consequence of the election.

Consideration for election

(11) For the purposes of this Part, if property is acquired at any time by a transferor as consideration for filing an election or amended election with a transferee under subsection (4)

(a) where the property was owned by the transferee immediately before that time,

(i) the transferee is deemed to have disposed of the property at that time for proceeds equal to the fair market value of the property at that time, and

(ii) no amount may be deducted in computing the transferee’s income as a consequence of the transfer of the property, except any amount arising as a consequence of subparagraph (i);

(b) the cost at which the property was acquired by the transferor at that time is deemed to be equal to the fair market value of the property at that time; and

(c) the transferor is not required to add an amount in computing income solely because of the acquisition at that time of the property.

Partnerships

(12) For the purposes of this section,

(a) a person or partnership that is (or is deemed by this paragraph to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership; and

(b) a person’s share of the income or loss of a partnership includes the person’s direct or indirect, through one or more other partnerships, share of that income or loss.

Anti-avoidance – interest and financing revenues and expenses

(13) A particular amount that would, in the absence of this subsection, be included under the description of A of the definition *interest and financing revenues*, or the description of B of the definition *interest and financing expenses*, in computing the income or loss of a taxpayer for a taxation year, must not be so included, if

(a) an amount in respect of the particular amount is deductible in computing the foreign accrual property income of a corporation that is a foreign affiliate, but not a controlled foreign affiliate, of the taxpayer or of a person or partnership that does not deal at arm's length with the taxpayer;

(b) the particular amount is received or receivable, directly or indirectly and in whole or in part, by the taxpayer, or a partnership of which it is a member, from

(i) a person that does not deal at arm's length with the taxpayer and that is

(A) an excluded entity,

(B) a natural person, or

(C) if the taxpayer is not a financial institution group entity or a financial holding corporation, a financial institution group entity or a financial holding corporation; or

(ii) a partnership of which a person described in subparagraph (i) is a member; or

(c) one of the main purposes of a transaction or series of transactions is to include the particular amount under the description of A of the definition *interest and financing revenues*, or the description of B of the definition *interest and financing expenses*, in computing the income or loss of the taxpayer for a taxation year and

(i) the transaction or series results in an amount that

(A) is not included in the description of B of the definition *interest and financing revenues*, or the description of A of the definition *interest and financing expenses*, in computing the income or loss of the taxpayer, or of a person not dealing at arm's length with the taxpayer, for a taxation year, and

(B) is deductible in computing the income or loss for a taxation year of the taxpayer or a person or partnership not dealing at arm's length with the taxpayer, or

(ii) it can reasonably be considered that, in the absence of the transaction or series, the particular amount or an amount for which the particular amount was substituted

(A) would have been included in computing the income or loss for a taxation year (other than as a dividend) of the taxpayer, or a person or partnership not dealing at arm's length with the taxpayer, and

(B) would not have been included under the description of A of the definition *interest and financing revenues*, or the description of B of the definition *interest and financing expenses*, in computing the income or loss of the taxpayer or a person not dealing at arm's length with the taxpayer.

Anti-avoidance — excluded entity

(14) For the purposes of subparagraph (c)(iv) of the definition *excluded entity*, a person or partnership is deemed to be tax-indifferent and not to deal at arm's length with the taxpayer or any eligible group entity in respect of the taxpayer throughout a taxation year of the taxpayer if

(a) any portion of the interest and financing expenses of the taxpayer for the year is paid or payable by the taxpayer or any eligible group entity in respect of the taxpayer to the person or partnership as part of a transaction or series of transactions; and

(b) it can reasonably be considered that one of the main purposes of the transaction or series is to avoid that portion of the interest and financing expenses being paid or payable to a person or partnership that is tax-indifferent and does not deal at arm's length with the taxpayer or any eligible group entity in respect of the taxpayer.

Deemed eligible group entities

(15) If two taxpayers are eligible group entities in respect of a third taxpayer, they are deemed to be eligible group entities in respect of each other.

Eligible group entities — related

(16) For the purposes of paragraph (a) of the definition *eligible group entity* in subsection (1)

(a) despite subsection 104(1), a reference to a person that is a trust does not include a reference to the trustee or other persons that own or control the trust property; and

(b) a corporation or a trust is deemed not to be related to a taxpayer where the corporation or trust would, but for this paragraph, be related to the taxpayer solely because the taxpayer is controlled by His Majesty in right of Canada, His Majesty in right of a province or an entity referred to in any of paragraphs 149(1)(c) to (d.6).

Eligible group entities — affiliated

(17) For the purposes of paragraph (b) of the definition *eligible group entity* in subsection (1), a corporation or a trust is deemed not to be affiliated with a taxpayer where that corporation or trust would, but for this subsection, be affiliated with the taxpayer solely because

(a) the taxpayer is controlled by His Majesty in right of Canada, His Majesty in right of a province or an entity referred to in any of paragraphs 149(1)(c) to (d.6); or

(b) if the corporation or trust is a registered charity or a non-profit organization with whom the taxpayer deals at arm's length, the corporation or trust is a *majority-interest beneficiary* (within the meaning of subsection 251.1(3)) of the taxpayer.

Filing Requirement

(18) Each taxpayer shall file with its return of income for the taxation year a prescribed form containing prescribed information with respect to the deductibility of its interest and financing expenses.

Relevant inter-affiliate interest

(19) If an amount is paid or payable by a controlled foreign affiliate (referred to in this subsection as the "payer affiliate") of a taxpayer and received or receivable by a controlled foreign affiliate (referred to in this subsection as the "recipient affiliate") of the taxpayer, or a taxpayer that is an eligible group entity in respect of the taxpayer, and the amount is relevant inter-affiliate interest of the payer affiliate for an affiliate taxation year (referred to in this subsection as the "payer affiliate year") and of the recipient affiliate for an affiliate taxation year (referred to in this subsection as the "recipient affiliate year"),

(a) the amount included, in respect of the relevant inter-affiliate interest, in the payer affiliate's relevant affiliate interest and financing expenses for the payer affiliate year is the lesser of

(i) the relevant inter-affiliate interest, and

(ii) the amount determined by the formula

$$A + B$$

where

A is the amount determined by the formula

$$(C - D) \times E \div C$$

where

C is the total of all amounts, each of which would – if the relevant inter-affiliate interest were not paid or payable – be, in respect of the payer affiliate for the payer affiliate year, the specified participating percentage of

(A) the taxpayer, or

(B) another taxpayer that is an eligible group entity in respect of the taxpayer, and

D is the total of all amounts, each of which is, in respect of the recipient affiliate for the recipient affiliate year, the specified participating percentage of

(A) the taxpayer, or

(B) another taxpayer that is an eligible group entity in respect of the taxpayer, and

E is the relevant inter-affiliate interest, and

B is the lesser of

(A) the relevant inter-affiliate interest, and

(B) the amount determined by the formula

$$(F - G) \times E \div H$$

where

F is the payer affiliate's relevant affiliate interest and financing revenues for the payer affiliate year,

G is the amount that would be the payer affiliate's relevant affiliate interest and financing expenses for the payer affiliate year if the payer affiliate had no relevant inter-affiliate interest for the payer affiliate year, and

H is the total of all amounts, each of which is an amount of relevant inter-affiliate interest of the payer affiliate for the payer affiliate year that would, in the absence of this paragraph, be included in the payer affiliate's relevant affiliate interest and financing expenses; and

(b) the amount included, in respect of the relevant inter-affiliate interest, in the recipient affiliate's relevant affiliate interest and financing revenues for the recipient affiliate year is the amount determined by the formula

$$B \times C \div D.$$

Group ratio — definitions

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

acceptable accounting standards means International Financial Reporting Standards and the generally accepted accounting principles of

(a) Canada;

(b) Australia;

(c) Brazil;

(d) member states of the European Union;

(e) member states of the European Economic Area;

(f) Hong Kong (China);

(g) Japan;

(h) Mexico;

(i) New Zealand;

- (j) the People’s Republic of China;
- (k) the Republic of India;
- (l) the Republic of Korea;
- (m) Singapore;
- (n) Switzerland;
- (o) the United Kingdom; and
- (p) the United States. (*principes comptables acceptables*)

consolidated financial statements means financial statements prepared in accordance with a relevant acceptable accounting standard in which the assets, liabilities, income, expenses and cash flows of two or more entities are presented as those of a single economic entity and, for greater certainty, the financial statements include the notes to the financial statements. (*états financiers consolidés*)

consolidated group means two or more entities (each referred to in this section as a “member of the consolidated group”), including an ultimate parent, in respect of which consolidated financial statements are required to be prepared for financial reporting purposes or that would be so required if the entities were subject to International Financial Reporting Standards. For these purposes, an equity-accounted entity is not considered to be a member of the consolidated group. (*groupe consolidé*)

equity-accounted entity means an entity the net income or loss of which is included in the consolidated financial statements of a consolidated group under the equity method of accounting. (*entité comptabilisée à la valeur de consolidation*)

equity interest means any of the following:

- (a) a share of the capital stock of a corporation;
- (b) an interest as a beneficiary under a trust;
- (c) an interest as a member of a partnership; or
- (d) any similar interest in respect of any entity. (*participation au capital*)

fair value amount means any amount reflected in the net income or net loss reported in the consolidated financial statements of a consolidated group for a relevant period where

- (a) the carrying value of any asset or liability of the consolidated group is measured using the fair value method of accounting; and
- (b) the amount reflects a change in the carrying value of the asset or liability during the relevant period and is included in either variable C or H in the definition *group adjusted net book income*. (*montant de la juste valeur*)

group adjusted net book income, of a consolidated group for a relevant period, means the amount determined by the formula

$$A - B$$

where

A is the amount determined by the formula

$$C + D + E + F + G$$

where

- C** is the amount, if any, of net income reported in the consolidated financial statements of the group for the period,
- D** is the amount, if any, of income tax expense reported in those statements,
- E** is the amount that would be the specified interest expense of the group for the period if the definition *specified interest expense* were read without reference to paragraph (b) of the description of A,
- F** is the total of all amounts used in determining the amounts reported in those statements each of which is the amount of
 - (a)** a depreciation or amortization expense in respect of an asset,
 - (b)** a charge in respect of the impairment or write-off of an asset referred to in paragraph (a),
 - (c)** a loss on the disposal of an asset referred to in paragraph (a),
 - (d)** if an election is made under subsection (4) and the net fair value amount for the period is negative, the absolute value of the net fair value amount, or
 - (e)** an expense, charge, deduction or loss that is similar to any of those referred to in paragraphs (a) to (d), and
- G** is the total of all amounts referred to in the description of D or F that are included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that net income or loss, and

B is the amount determined by the formula

$$H + I + J + K + L + M + N$$

where

- H** is the amount, if any, of net loss reported in those statements,
- I** is the amount, if any, of income tax recoverable reported in those statements,
- J** is the specified interest income of the group for the period,
- K** if an election is made under subsection (4) and the net fair value amount for the period is positive, the net fair value amount,
- L** is the total of all amounts used in determining the amounts reported in those statements each of which is the amount of a gain on the disposal of an asset referred to in paragraph (a) of the description of F, to the extent that the sale proceeds do not exceed the original cost of the asset,
- M** is the total of all amounts referred to in the description of I, K or L that is included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that net income or loss, and
- N** is the total of all amounts, each of which is the portion of net income reported in those statements that can reasonably be considered to be earned by a borrower (within the meaning of the definition *exempt interest and financing expenses* in subsection 18.2(1)) in respect of a borrowing (within the meaning of the definition *exempt interest and financing expenses* in subsection 18.2(1)) that results in exempt interest and financing expenses of the borrower. (*bénéfice net comptable rajusté du groupe*)

group net interest expense, of a consolidated group for a relevant period, means the amount determined by the formula

$$A - B$$

where

A is the amount determined by the formula

$$C - D$$

where

C is the specified interest expense of the group for the period, and

D is the specified interest income of the group for the period, and

B is the total of all amounts each of which is an amount determined, in respect of a specified non-member of the group, by the formula

$$E - F$$

where

E is the portion of the amount of the specified interest expense of the group for the period that is paid or payable to the specified non-member, and

F is the portion of the amount of the specified interest income of the group for the period that is received or receivable from the specified non-member. (*dépenses nettes d'intérêts du groupe*)

group ratio, of a consolidated group for a relevant period, means

(a) except where paragraph (b) applies, the percentage determined by the formula

$$1.1 \times A/B$$

where

A is the group net interest expense of the consolidated group for the relevant period, and

B is the group adjusted net book income of the consolidated group for the relevant period; and

(b) if the group adjusted net book income of the consolidated group for the relevant period is nil, nil. (*ratio de groupe*)

net fair value amount means the positive or negative amount that is the total of all amounts, each of which is a positive or negative fair value amount in the consolidated financial statements of the consolidated group for a relevant period. (*montant de la juste valeur net*)

relevant period means a period in respect of which the consolidated financial statements of a consolidated group are presented. (*période pertinente*)

specified interest expense, of a consolidated group for a relevant period, means the amount determined by the formula

$$A - B$$

where

A is the total of all amounts (other than amounts that are included in exempt interest and financing expenses), each of which is

(a) an amount of interest expense used in determining the amounts reported in the consolidated financial statements of the consolidated group for the relevant period;

(b) an amount of capitalized interest used in determining the amounts reported in those statements;

(c) the amount of a guarantee fee, standby charge, arrangement fee or similar fee paid or payable that is used in determining the amounts reported in those statements and that is not included in paragraph (a) or (b); or

(d) an amount referred to in any of paragraphs (a) to (c) that is included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that net income or loss, and

B is the total of all amounts each of which is the amount of a dividend included in the determination of an amount referred to in any of paragraphs (a) to (d) of the description of A. (*dépenses d'intérêts déterminées*)

specified interest income, of a consolidated group for a relevant period, means the amount determined by the formula

$$A - B$$

where

A is the total of all amounts, each of which is

- (a) an amount of interest income used in determining the amounts reported in the consolidated financial statements of the consolidated group for the relevant period;
- (b) the amount of a guarantee fee, standby charge, arrangement fee or similar fee received or receivable that is used in determining the amounts reported in those statements and that is not included in paragraph (a); or
- (c) an amount referred to in paragraph (a) or (b) that is included in the determination of the net income or loss of an equity-accounted entity, to the extent of the consolidated group's share of that income or loss, and

B is the total of all amounts each of which is the amount of a dividend included in the determination of an amount referred to in any of paragraphs (a) to (c) of the description of A. (*revenus d'intérêts déterminés*)

specified non-member, of a consolidated group for a relevant period, means a particular person or partnership that is not a member of the consolidated group and that, at any time in the period,

- (a) does not deal at arm's length with a member of the group;
- (b) alone or together with persons or partnerships with whom the particular person or partnership does not deal at arm's length owns, or has the right to acquire, one or more equity interests in a member of the group that
 - (i) provide 25% or more of the votes that could be cast at an annual meeting of the shareholders of the member, if the member is a corporation, or
 - (ii) have 25% or more of the fair market value of all equity interests in the member; or
- (c) is a person or partnership in respect of which a member of the group – alone or together with persons or partnerships with whom the member does not deal at arm's length – owns, or has the right to acquire, one or more equity interests in the particular person or partnership that
 - (i) provide 25% or more of the votes that could be cast at an annual meeting of the shareholders of the particular person, if the particular person is a corporation, or
 - (ii) have 25% or more of the fair market value of all equity interests in the particular person or partnership. (*non-membre déterminé*)

ultimate parent means a particular entity if

- (a) the particular entity is not His Majesty in right of Canada, His Majesty in right of a province or an entity referred to in any of paragraphs 149(1)(c) to (d.6);
- (b) it holds directly or indirectly an interest in one or more other entities in respect of which it is required to prepare consolidated financial statements for financial reporting purposes, or would be so required if it was subject to International Financial Reporting Standards; and
- (c) no entity (other than an entity described in paragraph (a)) holds, directly or indirectly, in the particular entity an interest that is described in paragraph (b). (*mère ultime*)

Allocated group ratio amount

(2) A taxpayer and each corporation or trust that is, throughout the relevant period, an eligible group entity in respect of that taxpayer and a member of the same consolidated group as the taxpayer (the taxpayer and each of the corporations or trusts being referred to in this subsection and subsection (4) as a "Canadian group member") may, if the taxpayer is a taxpayer described in subsection (7), elect, and otherwise jointly elect in respect of their taxation years ending in the

relevant period (each referred to in this subsection and subsection (4) as a “relevant taxation year”) to allocate amounts in respect of each relevant taxation year and the amount allocated to a member for a relevant taxation year is the amount determined in respect of that member for that relevant taxation year for the purposes of this section and subsection 18.2(2), if

(a) the consolidated financial statements of the consolidated group for the relevant period are audited financial statements;

(b) the election or amended election

(i) specifies the amount allocated to each Canadian group member for each relevant taxation year, and

(ii) is filed with the Minister by the taxpayer or a Canadian group member of the taxpayer on or before

(A) the latest filing-due date of a Canadian group member for a relevant taxation year, or

(B) the day that is 90 days after the sending of

(I) a notice of assessment of tax payable under this Part by a Canadian group member for a relevant taxation year, or

(II) a notification that no tax is payable under this Part by a Canadian group member for a relevant taxation year;

(c) the total of all amounts, each of which is an amount allocated to a Canadian group member for a relevant taxation year, does not exceed the least of

(i) the total of all amounts in respect of a member each of which is determined by the formula

$$A \times B$$

where

A is the group ratio of the consolidated group for the relevant period, and

B is the adjusted taxable income of the member for each relevant taxation year,

(ii) the group net interest expense of the consolidated group in respect of the relevant period, and

(iii) the total of all amounts, each of which would, in the absence of section 257, be the adjusted taxable income of a member for each relevant taxation year;

(d) an amended election has not been filed in accordance with this section; and

(e) where the election is an amended election,

(i) the following conditions are met:

(A) in the absence of any assessment, the condition in paragraph (c) would be met in respect of a prior election under this subsection made by the Canadian group members for a relevant taxation year under this subsection, and

(B) subsection 18.2(9) does not apply to a tax benefit in respect of a prior election for the relevant period, or

(ii) the Minister grants permission to amend the prior election under subsection (3).

Late or amended election

(3) The Minister may extend the time for making an election or grant permission to amend or revoke an election under subsection (2) if

- (a) the Canadian group members demonstrate to the satisfaction of the Minister that
 - (i) they made reasonable efforts to determine all amounts that may reasonably be considered relevant in making the election, and
 - (ii) the election or amended election, as the case may be, is filed as soon as circumstances permit; and
- (b) in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the election to be made, amended or revoked.

Fair value adjustments — election

(4) For the purposes of calculating group adjusted net book income, the following rules apply:

- (a) no amounts may be included in paragraph (d) of variable F or in variable K of the definition *group adjusted net book income* for any relevant period unless the Canadian group members jointly elect, for the first relevant taxation year in respect of which the Canadian group members jointly elect under subsection (2), to include net fair value amounts in calculating group adjusted net book income for the relevant period in which the first relevant taxation year ends;
- (b) if an election to include net fair value amounts in the calculation is not made in the first relevant taxation year, each Canadian group member is deemed not to have so elected in that taxation year and any subsequent taxation year; and
- (c) if an election to include net fair value amounts in the calculation is made in the first relevant taxation year, each Canadian group member is deemed to have so elected in that taxation year and any subsequent taxation year.

Assessment

(5) If an election or amended election has been made under subsection (2), the Minister shall, notwithstanding subsection 152(4) and (5), assess or reassess the tax, interest or penalties payable under this Act by any taxpayer for any relevant taxation year as is necessary to give effect to the election or amended election.

Use of accounting terms

(6) For the purposes of the definitions *consolidated financial statements*, *consolidated group*, *equity-accounted entity*, *fair value amount*, *group adjusted net book income*, *specified interest expense*, *specified interest income* and *ultimate parent* in subsection (1),

- (a) subject to paragraph (b), any term not otherwise defined shall have its meaning for financial reporting purposes under the relevant acceptable accounting standards; and
- (b) the term “dividend” as used in the definitions *specified interest expense* and *specified interest income* in subsection (1) shall have its meaning otherwise applicable for the purposes of this Act.

Single member group

(7) For the purposes of this section, if a taxpayer resident in Canada is not a member of a consolidated group for a relevant period,

- (a) the taxpayer is deemed to be an eligible group entity in respect of itself;
- (b) the taxpayer is deemed to be
 - (i) a member of a consolidated group that comprises only itself, and
 - (ii) the ultimate parent of the group; and
- (c) the taxpayer’s financial statements are deemed to be consolidated financial statements.

Anti-avoidance — specified non-member

(8) A particular person or partnership that is not a member of a consolidated group for a relevant period is deemed to be a specified non-member in respect of the group for the period if a portion of the amount of the specified interest expense of the group is paid or payable by a member of the group to the particular person or partnership as part of a transaction or series of transactions where it can reasonably be considered that one of the main purposes of the transaction or series is to avoid the inclusion of that portion in the determination of the amount for E in the definition *group net interest expense* in subsection (1).

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023 except that

(a) subsection (1) also applies in respect of a taxation year of a taxpayer that begins before October 1, 2023 and ends after that day, if

(i) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series, and

(ii) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection (1) or 1(1) to the taxpayer or to increase an amount of excess capacity of any taxpayer determined under paragraphs (c) and (d);

(b) paragraph (a) in the definition *ratio of permissible expenses* in subsection 18.2(1) of the Act is to be read, in respect of a taxpayer, as if its reference to "40%" were a reference to "30%" if

(i) any taxation year of the taxpayer that begins on or after January 1, 2023 but before January 1, 2024 is, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series, and

(ii) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of paragraph (b) of that definition to the taxpayer;

(c) for the purpose of determining the cumulative unused excess capacity of a taxpayer that is a corporation or a fixed interest commercial trust for a particular taxation year, the taxpayer's excess capacity, for each of the three taxation years (in this paragraph and paragraph (d), each referred to as a "pre-regime year") immediately preceding the first taxation year of the taxpayer in respect of which subsection (1) applies (referred to in this paragraph and paragraph (d) as the "first regime year" of the taxpayer), is deemed to be nil, unless

(i) the taxpayer and each corporation or fixed interest commercial trust that is an eligible group entity in respect of the taxpayer at the end of the first regime year (referred to in this paragraph and paragraph (d) as an "eligible pre-regime group entity") jointly elect in prescribed form to have paragraph (d) apply in respect of the taxpayer,

(ii) the election is filed with the Minister by the taxpayer or by an eligible pre-regime group entity of the taxpayer on or before the earliest filing due date for the first regime year of the taxpayer or of any eligible pre-regime group entity of the taxpayer, and

(iii) in the election the taxpayer and the eligible pre-regime group entities allocate to the taxpayer or eligible pre-regime group entities in respect of the taxpayer, for the purpose of determining the taxpayer's cumulative unused excess capacity for the particular taxation year and any other taxation year in which the taxpayer's ratio of permissible expenses is the same as in the particular year, one or more portions of the group net excess capacity (within the meaning of subparagraph (d)(vi)) for the pre-regime years that is determined for that purpose; and

(d) if the conditions in subparagraphs (c)(i) to (iii) are satisfied, for the purpose of determining the taxpayer's cumulative unused excess capacity for a particular taxation year and any other taxation

year in which the taxpayer's ratio of permissible expenses is the same as in the particular year, the taxpayer's excess capacity for a pre-regime year (other than for the purposes of this paragraph) is determined in accordance with the following rules:

(i) for the purposes of this paragraph, the determination of whether a corporation or a fixed interest commercial trust is an eligible pre-regime group entity in respect of the taxpayer is to be made at the end of the taxpayer's first regime year,

(ii) the "excess interest", of the taxpayer or an eligible pre-regime group entity in respect of the taxpayer, for a pre-regime year means the amount that would be determined for the pre-regime year under paragraph (b) of the definition *absorbed capacity*,

(iii) the "excess capacity otherwise determined" means the amount that would be the excess capacity of the taxpayer or an eligible pre-regime group entity in respect of the taxpayer for a pre-regime year, if that amount were determined under the definition *excess capacity* in subsection 18.2(1),

(iv) for the purposes of this paragraph, if the taxpayer or an eligible pre-regime group entity in respect of the taxpayer was subject to a loss restriction event at the beginning of any of its pre-regime years, its excess capacity otherwise determined and excess interest for any pre-regime year that precedes that year are deemed to be nil,

(v) the "net excess capacity" of a taxpayer for its pre-regime years means the amount, if any, by which the total of all amounts each of which is the excess capacity otherwise determined of the taxpayer for a pre-regime year exceeds the total of all amounts each of which is the excess interest of the taxpayer for a pre-regime year,

(vi) the "group net excess capacity" for the pre-regime years means the amount, if any, by which the total of all amounts each of which is the excess capacity otherwise determined of the taxpayer or an eligible pre-regime group entity in respect of the taxpayer (other than a taxpayer or eligible pre-regime group entity that is a financial institution group entity at any time in the pre-regime years) for a pre-regime year exceeds the total of all amounts each of which is the excess interest of the taxpayer or an eligible pre-regime group entity (other than a taxpayer or eligible pre-regime group entity that is a financial institution group entity at any time in the pre-regime years) for a pre-regime year,

(vii) for the purposes of determining the excess capacity otherwise determined or the excess interest of the taxpayer or an eligible pre-regime group entity for a pre-regime year, the net excess capacity of the taxpayer or an eligible pre-regime group entity for its pre-regime years and the group net excess capacity for pre-regimes years,

(A) the ratio of permissible expenses is the same as the taxpayer's ratio of permissible expenses for the particular year, and

(B) if it is the case that, in respect of a pre-regime year, the conditions in subsection 18.21(2) of the Act would be met in respect of the taxpayer and each eligible pre-regime group entity that is a member of the same consolidated group in respect of the year – if the reference in that subsection to the "filing–due date of a Canadian group member for the year" were read as a reference to the "filing–due date of any Canadian group member for its first regime year" – then that subsection applies in respect of the taxpayer and each such eligible pre-regime group entity for the pre-regime year,

(viii) the taxpayer's excess capacity for a pre-regime year is deemed to be

(A) if the taxpayer's net excess capacity for its pre-regime years is not a positive amount, nil, and

(B) in any other case, the lesser of

(I) the taxpayer's excess capacity otherwise determined for the pre-regime year, and

(II) the portion, if any, of the group net excess capacity allocated to the taxpayer for the year in the joint election under paragraph (c), and

(ix) notwithstanding subparagraph (viii), the taxpayer's excess capacity for each pre-regime year is deemed to be nil if

(A) the total of all amounts each of which is a portion of the group net excess capacity that is allocated to the taxpayer or an eligible pre-regime group entity in respect of the taxpayer for a pre-regime year in the joint election under paragraph (c) is greater than the group net excess capacity, or

(B) the total of all amounts each of which is a portion of the group net excess capacity that is allocated to the taxpayer for a pre-regime year under the joint election is greater than the taxpayer's net excess capacity for its pre-regime years.

4 (1) The portion of the definition *commercial debt obligation* after paragraph (b) in subsection 80(1) of the Act is replaced by the following:

an amount in respect of the interest was or would have been deductible in computing the debtor's income, taxable income or taxable income earned in Canada, as the case may be, if this Act were read without reference to subsections 15.1(2) and 15.2(2), paragraph 18(1)(g), subsections 18(2), 18(3.1), 18(4) and 18.2(2) and section 21; (*créance commerciale*)

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023.

5 (1) Paragraph 87(2.1)(a) of the Act is replaced by the following:

(a) determining the new corporation's non-capital loss, net capital loss, restricted farm loss, farm loss, limited partnership loss or restricted interest and financing expense, as the case may be, for any taxation year, and

(2) Subsection 87(2.1) of the Act is amended by adding the following after paragraph (a):

(a.1) determining, for any taxation year, the new corporation's

(i) absorbed capacity, excess capacity and transferred capacity in determining its cumulative unused excess capacity for a taxation year, and

(ii) interest and financing expenses and interest and financing revenues in determining an amount under paragraph (h) in the description of B of the definition *adjusted taxable income* in subsection 18.2(1), and

(3) Paragraph 87(2.1)(b) of the Act is replaced by the following:

(b) determining the extent to which subsections 111(3) to 111(5.4) and paragraph 149(10)(c) apply to restrict the deductibility by the new corporation of any non-capital loss, net capital loss, restricted farm loss, farm loss, limited partnership loss or restricted interest and financing expense, as the case may be,

(4) Paragraph 87(2.1)(d) of the Act is replaced by the following:

(d) the income of the new corporation (other than as a result of an amount of interest and financing expenses being deductible by the new corporation because of paragraph (a.1)) or any of its predecessors, or

(5) Subsections (1) and (3) apply in respect of amalgamations that occur on or after October 1, 2023.

(6) Subsections (2) and (4) apply in respect of amalgamations that occur in any taxation year.

6 (1) The portion of subsection 88(1.1) of the Act before paragraph (a) is replaced by the following:

Non-capital losses, etc., of subsidiary

(1.1) Where a Canadian corporation (in this subsection and subsection (1.11) referred to as the “subsidiary”) has been wound up and not less than 90% of the issued shares of each class of the capital stock of the subsidiary were, immediately before the winding-up, owned by another Canadian corporation (in this subsection and subsection (1.11) referred to as the “parent”) and all the shares of the subsidiary that were not owned by the parent immediately before the winding-up were owned at that time by a person or persons with whom the parent was dealing at arm’s length, for the purpose of computing the taxable income of the parent under this Part and the tax payable under Part IV by the parent for any taxation year commencing after the commencement of the winding-up, such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary as may reasonably be regarded as its loss from carrying on a particular business (in this subsection referred to as the “subsidiary’s loss business”) and any other portion of any non-capital loss or limited partnership loss of the subsidiary as may reasonably be regarded as being derived from any other source or being in respect of a claim made under section 110.5 for any particular taxation year of the subsidiary (in this subsection referred to as the “subsidiary’s loss year”), and the portion of the restricted interest and financing expense of the subsidiary for any particular taxation year of the subsidiary (in this subsection referred to as the “subsidiary’s expense year”) that may reasonably be regarded as an expense or loss incurred by the subsidiary in the course of carrying on a particular business (in this subsection referred to as the “subsidiary’s expense business”) and any other portion of the restricted interest and financing expense of the subsidiary that may reasonably be regarded as being incurred in respect of any other source, to the extent that it

(2) The portion of subsection 88(1.1) of the Act that follows paragraph (b) and precedes paragraph (c) is replaced by the following:

shall, for the purposes of this subsection, paragraphs 111(1)(a), (a.1), (c), (d) and (e), subsection 111(3) and Part IV,

(3) Subsection 88(1.1) of the Act is amended by deleting the “and” after paragraph (d) and by adding the following after paragraph (d.1):

(d.2) in the case of the portion of any restricted interest and financing expense of the subsidiary that may reasonably be regarded as being incurred in carrying on the subsidiary’s expense business, be deemed, for the taxation year of the parent in which the subsidiary’s expense year ended, to be a restricted interest and financing expense of the parent from carrying on the subsidiary’s expense business that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up, and

(d.3) in the case of any other portion of any restricted interest and financing expense of the subsidiary that may reasonably be regarded as being incurred in respect of any other source, be deemed, for the taxation year of the parent in which the subsidiary’s expense year ended, to be a restricted interest and financing expense of the parent that was incurred in respect of that other source and that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up,

(4) The portion of paragraph 88(1.1)(e) of the Act before subparagraph (i) is replaced by the following:

(e) if control of the parent has been acquired by a person or group of persons at any time after the commencement of the winding-up, or control of the subsidiary has been acquired by a person or group of persons at any time whatever, no amount in respect of the subsidiary’s non-capital loss, farm loss or restricted interest and financing expense for a taxation year ending before that time is deductible in computing the taxable income of the parent for a particular taxation year ending after that time, except that such portion of the subsidiary’s non-capital loss or farm loss as may reasonably be regarded as its loss from carrying on a business, or restricted interest and financing expense as may reasonably be regarded as being the subsidiary’s expense or loss incurred in the course of carrying on a business and, where a business was carried on by the subsidiary in that year, such portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing its taxable income for the year, is deductible only

(5) The portion of paragraph 88(1.1)(e) of the Act after subparagraph (ii) is replaced by the following:

and for the purpose of this paragraph, where this subsection applied to the winding-up of another corporation in respect of which the subsidiary was the parent and this paragraph applied in respect of losses and restricted interest

and financing expenses of that other corporation, the subsidiary shall be deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses and restricted interest and financing expenses,

(6) Subsection 88(1.1) of the Act is amended by adding “and” at the end of paragraph (f) and the following after paragraph (f):

(g) any portion of a restricted interest and financing expense of the subsidiary that would otherwise be deemed by paragraph (d.2) or (d.3) to be a restricted interest and financing expense of the parent for a particular taxation year beginning after the commencement of the winding-up shall be deemed, for the purpose of computing the parent’s taxable income for taxation years beginning after the commencement of the winding-up, to be a restricted interest and financing expense of the parent for its immediately preceding taxation year and not for the particular year, where the parent so elects in its return of income under this Part for the particular year.

(7) Section 88 of the Act is amended by adding the following after subsection (1.1):

Cumulative unused excess capacity of subsidiary

(1.11) If a subsidiary has been wound up in the circumstances described in subsection (1.1), the absorbed capacity, the excess capacity and any transferred capacity, of the subsidiary for any particular taxation year are – for the purpose of computing the cumulative unused excess capacity of the parent for any taxation year of the parent that commenced after the commencement of the winding up – deemed to be an amount of absorbed capacity, an amount of excess capacity and an amount of transferred capacity, respectively, of the parent for the taxation year of the parent in which the subsidiary’s particular taxation year ended.

(8) Subsections (1) to (6) apply in respect of windings-up that begin on or after October 1, 2023.

(9) Subsection (7) applies in respect of windings-up that begin in any taxation year.

7 (1) The portion of subsection 91(1.2) of the Act before paragraph (a) is replaced by the following:

Deemed year-end

(1.2) If this subsection applies at a particular time in respect of a foreign affiliate of a particular taxpayer resident in Canada, then for the purposes of this section, sections 18.2 and 92 and clause 95(2)(f.11)(ii)(D),

(2) Subsection (1) applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer beginning on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer’s three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

8 (1) Paragraph 92(1)(a) of the Act is replaced by the following:

(a) there shall be added in respect of that share any amount included in respect of that share under subsection 91(1) or (3) in computing the taxpayer’s income for the year or any preceding taxation year (or that would have been required to have been so included in computing the taxpayer’s income but for subsection 56(4.1) and sections 74.1 to 75 of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952), except that, if the amount so included is greater than it otherwise would have been because of the application of clause 95(2)(f.11)(ii)(D), the amount added under this paragraph shall be the amount that would have been so included in the absence of that clause; and

(2) Subsection (1) applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer beginning on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer’s three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

9 (1) The portion of subsection 94.2(2) of the Act before paragraph (a) is replaced by the following:

(2) If this subsection applies at any time to a beneficiary under, or a particular person in respect of, a trust, then for the purposes of applying this section, section 18.2, subsections 91(1) to (4), paragraph 94.1(1)(a), section 95, the definition *restricted interest and financing expense* in subsection 111(8) and section 233.4 to the beneficiary under, and, if applicable, to the particular person in respect of, the trust

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer’s three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

10 (1) Clause 95(2)(f.11)(ii)(A) of the Act is replaced by the following:

(A) this Act is to be read without reference to subsections 17(1), 18(4) and 18.2(2) and section 91, except that, where the foreign affiliate is a member of a partnership, section 91 is to be applied to determine the income or loss of the partnership and for that purpose subsection 96(1) is to be applied to determine the foreign affiliate’s share of that income or loss of the partnership,

(2) Subparagraph 95(2)(f.11)(ii) of the Act is amended by striking out “and” at the end of clause (B) and by adding the following after clause (C):

(D) if the foreign affiliate is a controlled foreign affiliate of the taxpayer at the end of the taxation year, and the taxpayer is not an excluded entity (as defined in subsection 18.2(1)) for its taxation year (referred to in this clause as the “taxpayer year”) in which the taxation year ends,

(I) notwithstanding any other provision of this Act, no deduction shall be made in respect of any amount that is included in the affiliate’s relevant affiliate interest and financing expenses (as defined in subsection 18.2(1)) for the taxation year, to the extent of the proportion of that amount that is determined by the first formula in subsection 18.2(2) in respect of the taxpayer for the taxpayer year, and

(II) an amount is to be included, in determining the amount described in subparagraph (f)(ii) for the taxation year, that is equal to the amount that would be included under paragraph 12(1)(1.2) in determining the amount described in subparagraph (f)(ii) for the taxation year if

1 clause (A) were read without regard to its reference to subsection 18.2(2), and

2 the proportion that applied for purposes of subparagraph (ii) of the description of B in paragraph 12(1)(1.2) were the proportion that is determined by the first formula in subsection 18.2(2) in respect of the taxpayer for the taxpayer year, and

(E) notwithstanding any other provision of this Act, no deduction shall be made in respect of one or more amounts (each referred to in this clause as an “elected amount”) if

(I) the elected amount would, in the absence of this clause,

1 be included in the foreign affiliate’s relevant affiliate interest and financing expenses for the taxation year, and

2 be deductible in determining the amount described in subparagraph (f)(ii),

(II) the total of the elected amounts is equal to the lesser of the following amounts (determined without regard to this clause):

1 the foreign affiliate’s foreign accrual property loss (within the meaning assigned by subsection 5903(3) of the *Income Tax Regulations*) for the taxation year, and

2 the foreign affiliate’s relevant affiliate interest and financing expenses for the taxation year,

(III) the taxpayer files with the Minister, in respect of the elected amounts, an election in writing in prescribed manner under this clause,

(IV) the election specifies the following amounts:

1 each of the elected amounts,

2 the foreign affiliate’s relevant affiliate interest and financing expenses (determined without regard to this clause) for the taxation year,

3 the foreign affiliate’s relevant affiliate interest and financing expenses for the taxation year,

4 the foreign affiliate’s foreign accrual property loss (determined without regard to this clause) for the taxation year, and

5 the foreign affiliate’s foreign accrual property loss or foreign accrual property income, as the case may be, for the taxation year, and

(V) the election is filed on or before the filing-due date of the taxpayer for its taxation year in which the taxation year ends;

(3) Subsection (1) applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer beginning on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer’s three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

11 (1) The portion of subsection 96(3) of the Act before paragraph (a) is replaced by the following:

Agreement or election of partnership members

(3) If a taxpayer who was a member of a partnership at any time in a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an agreement, designation or election under or in respect of the application of any of subsections 10.1(1), 13(4), (4.2) and (16), section 15.2, the definition *excluded interest* in subsection 18.2(1), subsections 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B), subsections 44(1) and (6), 50(1) and 80(5) and (9) to (11), section 80.04, subsections 86.1(2), 88(3.1), (3.3) and (3.5) and 90(3), the definition *relevant cost base* in subsection 95(4) and subsections 97(2), 139.1(16) and (17) and 249.1(4) and (6) that, if this Act were read without reference to this subsection, would be a valid agreement, designation or election,

(2) Subsection (1) applies in respect of taxation years that begin on or after October 1, 2023.

12 (1) Subsection 111(1) of the Act is amended by adding the following after paragraph (a):

Restricted interest and financing expenses

(a.1) restricted interest and financing expenses for taxation years preceding the year, but no amount is deductible for the year in respect of restricted interest and financing expenses except to the extent of the amount determined by the following formula:

$$A + B$$

where

A is the amount that would be the taxpayer's excess capacity for the year if the amount determined for C in paragraph (b) of the definition *excess capacity* in subsection 18.2(1) were nil, and

B is the total of all amounts, each of which is an amount of *received capacity* (as defined in subsection 18.2(1)) of the taxpayer for the year;

(2) The portion of subsection 111(3) of the Act before subparagraph (a)(i.1) is replaced by the following:

Limitation on deductibility

(3) For the purposes of subsection (1),

(a) an amount in respect of a non-capital loss, restricted interest and financing expense, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year is deductible, and an amount in respect of a net capital loss for a taxation year may be claimed, in computing the taxable income of a taxpayer for a particular taxation year only to the extent that it exceeds the total of

(i) amounts deducted under this section in respect of that non-capital loss, restricted interest and financing expense, restricted farm loss, farm loss or limited partnership loss in computing taxable income (or, in the case of a restricted interest and financing expense, in computing a non-capital loss) for taxation years preceding the particular taxation year,

(3) Paragraph 111(3)(a) of the Act is amended by striking out “and” at the end of subparagraph (ii) and by adding the following after subparagraph (ii):

(iii) amounts claimed in respect of that limited partnership loss in computing taxable income for taxation years preceding the particular taxation year to the extent that subsection 18.2(2) denied a deduction in respect of those amounts for the preceding taxation year, and

(4) The portion of paragraph 111(3)(b) of the Act before subparagraph (ii) is replaced by the following:

(b) no amount is deductible in respect of a non-capital loss, restricted interest and financing expense, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year until

(i) in the case of a non-capital loss, the deductible non-capital losses,

(i.1) in the case of a restricted interest and financing expense, the restricted interest and financing expenses,

(5) The portion of paragraph 111(5)(a) of the Act before subparagraph (i) is replaced by the following:

Loss restriction event — certain losses and expenses

(5) If at any time a taxpayer is subject to a loss restriction event,

(a) no amount in respect of the taxpayer's non-capital loss, restricted interest and financing expense or farm loss for a taxation year that ended before that time is deductible by the taxpayer for a taxation year that ends after that time, except that the portion of the taxpayer's non-capital loss, restricted interest and financing expense or farm loss, as the case may be, for a taxation year that ended before that time as may reasonably be regarded as the taxpayer's loss from carrying on a business or the taxpayer's expense or loss incurred in the course of carrying on a business, as the case may be, and, if a business was carried on by the taxpayer in that year, the portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing the taxpayer's taxable income for that year is deductible by the taxpayer for a particular taxation year that ends after that time

(6) The Act is amended by adding the following after subsection 111(5):

Loss restriction event – cumulative unused excess capacity

(5.01) If at any time a particular taxpayer is subject to a loss restriction event, the cumulative unused excess capacity of any taxpayer for any taxation year that ends after that time shall be determined without regard to any absorbed capacity, excess capacity or transferred capacity of the particular taxpayer for any taxation year that ended before that time.

(7) The definition *non-capital loss* in subsection 111(8) is amended by replacing paragraph (b) of the description of E with the following:

(b) an amount deducted under paragraph (1)(a.1) or (b) or section 110.6, or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (k), section 112 and subsections 113(1) and 138(6), in computing the taxpayer's taxable income for the year, or

(8) Subsection 111(8) of the Act is amended by adding the following in alphabetical order:

restricted interest and financing expense of a taxpayer for a taxation year means the amount determined by the formula

$$A + B + C$$

where

A is the total of all amounts each of which is the portion of an amount that is not deductible in computing the income for the taxation year of the taxpayer from a business or property, or the taxable income of the taxpayer for the year, because of subsection 18.2(2),

B is the amount determined under paragraph 12(1)(l.2) in respect of the taxpayer for the taxation year, and

C is the total of all amounts, each of which is an amount determined by the formula

$$D \times E$$

where

D is the portion of an amount that is not deductible because of subclause 95(2)(f.11)(ii)(D)(I), or an amount that is included because of subclause 95(2)(f.11)(ii)(D)(II), in determining, in respect of the taxpayer for an affiliate taxation year (as defined in subsection 18.2(1)) of a controlled foreign affiliate of the taxpayer ending in the taxation year, an amount of the affiliate that is described in subparagraph 95(2)(f)(ii), and

E is the taxpayer's specified participating percentage (as defined in subsection 18.2(1)) in respect of the affiliate for the affiliate taxation year; (*dépense d'intérêts et de financement restreinte*)

(9) The portion of subsection 111(9) of the Act before paragraph (a) is replaced by the following:

Exception

(9) In this section, a taxpayer's non-capital loss, restricted interest and financing expense, net capital loss, restricted farm loss, farm loss and limited partnership loss for a taxation year during which the taxpayer was not resident in Canada shall be determined as if

(10) Subsections (1) to (9) apply in respect of taxation years of a taxpayer that begin on or after October 1, 2023. However, subsections (1) to (8) also apply in respect of a taxation year of a taxpayer that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

13 (1) Subsection 152(4) of the Act is amended by adding the following after paragraph (b.8):

(b.9) a prescribed form that is required to be filed under subsection 18.2(18) is not filed as and when required, and the assessment, reassessment or additional assessment is

(i) made before the day that is

(A) in the case of a taxpayer described in paragraph (3.1)(a), four years after the day on which the prescribed form containing the prescribed information is filed, or

(B) in any other case, three years after the day on which the prescribed form containing the prescribed information is filed, and

(ii) in respect of the application of paragraph 12(1)(1.2), subsection 18.2(2), clause 95(2)(f.11)(ii)(D) or (E) or paragraph 111(1)(a.1).

(2) Subsection (1) applies in respect of taxation years that begin on or after October 1, 2023.

14 (1) Subsection 216(1) of the Act is amended by striking out "and" at the end of paragraph (c), by adding "and" at the end of paragraph (d) and by adding the following after paragraph (d):

(e) the definitions *eligible group entity*, *excluded entity* and *fixed interest commercial trust* in subsection 18.2(1) and section 18.21 do not apply in computing the non-resident person's income.

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023.

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

absorbed capacity has the same meaning as in subsection 18.2(1); (*capacité absorbée*)

cumulative unused excess capacity has the same meaning as in subsection 18.2(1); (*capacité excédentaire cumulative inutilisée*)

excess capacity has the same meaning as in subsection 18.2(1); (*capacité excédentaire*)

interest and financing expenses has the same meaning as in subsection 18.2(1), except for the purposes of the definition *economic profit* in subsection 126(7); (*dépenses d'intérêts et de financement*)

interest and financing revenues has the same meaning as in subsection 18.2(1); (*revenus d'intérêts et de financement*)

restricted interest and financing expense has the same meaning as in subsection 111(8); (*dépense d'intérêts et de financement restreinte*)

transferred capacity has the same meaning as in subsection 18.2(1); (*capacité transférée*)

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

16 (1) The definition *specified provision* in subsection 256.1(1) of the Act is replaced by the following:

specified provision means any of subsections 10(10) and 13(24), paragraph 37(1)(h), subsections 66(11.4) and (11.5), 66.7(10) and (11), 69(11) and 111(4), (5), 5.01, (5.1) and (5.3), paragraphs (j) and (k) of the definition *investment tax credit* in subsection 127(9), subsections 181.1(7) and 190.1(6) and any provision of similar effect. (*dispositions déterminées*)

(2) Subsection (1) applies in respect of taxation years of a taxpayer that begin on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the reasons of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

17 (1) The portion of subsection 5903(5) of the Regulations before paragraph (a) is replaced by the following

(5) For the purposes of this section, section 5903.1 and section 18.2 of the Act,

(2) Subsection (1) applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer beginning on or after October 1, 2023. However, subsection (1) also applies in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

18 (1) Subparagraph (a)(iii) of the definition *earnings* in subsection 5907(1) of the Regulations is replaced by the following

(iii) in any other case, the amount that would be the income from the active business for the year under Part I of the Act if the business were carried on in Canada, the affiliate were resident in Canada and the Act were read without reference to subsections 18(4), 18.2(2), 80(3) to (12), (15) and (17) and 80.01(5) to (11) and sections 80.02 to 80.04,

(2) Paragraph (b) of the definition *net earnings* in subsection 5907(1) of the Regulations is replaced by the following:

(b) in respect of foreign accrual property income is the amount that would be its foreign accrual property income for the year, if the formula in the definition *foreign accrual property income* in subsection 95(1) of the Act were read without reference to F and F.1 in that formula and the amount determined for E in that formula were the amount determined under paragraph (a) of the description of E in that formula and the Act were read without regard to its clause 95(2)(f.11)(ii)(D), minus the portion of any income or profits tax paid to the government of a country for the year by the affiliate that can reasonably be regarded as tax in respect of that income,

(3) Subclause (b)(i)(A)(I) of the definition *net loss* in subsection 5907(1) of the Regulations is replaced by the following:

(I) the amount that would be determined for D in the formula in the definition *foreign accrual property income* in subsection 95(1) of the Act for the year, if the Act were read without regard to its clauses 95(2)(f.11)(ii)(D) and (E),

(4) Subsections (1) to (3) apply in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer beginning on or after October 1, 2023. However, subsections (1) to (3) also apply in respect of a taxation year of a foreign affiliate of a taxpayer that ends in a taxation year of the taxpayer that begins before October 1, 2023 and ends after that day if

(a) any of the taxpayer's three immediately preceding taxation years was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and

(b) it can reasonably be considered that one of the purposes of the transaction, event or series was to defer the application of subsection 1(1) or 3(1) to the taxpayer.

