Tax Measures: Supplementary Information

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Overview

This annex provides detailed information on each of the tax measures proposed in the Budget.

Table 1 lists these measures and provides estimates of their budgetary impact.

The annex also provides the Notices of Ways and Means Motions to amend the *Income Tax Act*, the *Excise Tax Act*, the *Excise Act, 2001* and other related legislation and draft amendments to related regulations.

In this annex, references to "Budget Day" are to be read as references to the day on which this Budget is presented.

Table 1

Cost of Proposed Tax Measures[1, 2]

Fiscal Costs (millions of dollars)

	2018–2019	2019–2020	2020–2021	2021–2022	2022–2023	2023–2024	Total
Personal Income Tax							
Canada Training Credit	-	35	155	185	210	230	815
Less savings due to claimed amounts not qualifying under the Tuition Tax Credit	-	*(5)*	*(20)*	*(25)*	*(25)*	*(30)*	*(105)*
Home Buyers' Plan – Withdrawal Limit	-	20	20	20	20	20	100
Home Buyers' Plan – Breakdown of a Marriage or Common-Law Partnership	-	5	10	10	10	10	45
Change in Use Rules for Multi-Unit Residential Properties*	-	-	-	-	-	-	-
Permitting Additional Types of Annuities under Registered Plans – Advanced Life Deferred Annuities*	-	-	-	2	4	5	11
Permitting Additional Types of Annuities under Registered Plans – Variable Payment Life Annuities*	-	-	-	-	-	-	-
Registered Disability Savings Plan – Cessation of Eligibility for the Disability Tax Credit[3]	-	3	17	28	30	31	109
Tax Measures for Kinship Care Providers*	-	-	-	-	-	-	-
Donations of Cultural Property	-	-	-	-	-	-	-
Medical Expense Tax Credit*	-	-	-	-	-	-	-
Contributions to a Specified Multi-Employer Plan for Older Members*	-	-	-	-	-	-	-
Pensionable Service Under an Individual Pension Plan	-	-	-	-	-	-	-
Mutual Funds: Allocation to Redeemers Methodology	-	(25)	(105)	(90)	(75)	(55)	(350)
Carrying on a Business in a Tax-Free Savings Account*	-	-	-	-	-	-	-
Electronic Delivery of Requirements for Information*	-	-	-	-	-	-	-
Business Income Tax							
Business Investment in Zero-Emission Vehicles	-	14	21	40	90	100	265
Small Business Deduction – Farming and Fishing	-	-	-	-	-	-	-
Scientific Research and Experimental Development Program	-	5	80	100	105	105	395
Canadian-Belgian Co-productions – Canadian Film or Video Production Tax Credit*	-	-	-	-	-	-	-
Character Conversion Transactions	-	-	-	-	-	-	-

Table 1

Cost of Proposed Tax Measures[1, 2]

Fiscal Costs (millions of dollars)

	2018–2019	2019–2020	2020–2021	2021–2022	2022–2023	2023–2024	Total
Support for Canadian Journalism							
Qualified Donee Status	-	6	25	32	22	11	96
Refundable Labour Tax Credit	-	-	75	95	95	95	360
Tax Credit for Digital Subscriptions	-	5	26	31	36	41	138
Less: Amounts Provisioned in the Fiscal Framework	-	*(45)*	*(105)*	*(130)*	*(150)*	*(165)*	*(595)*
International Tax Measures							
Transfer Pricing Measures	-	-	-	-	-	-	-
Foreign Affiliate Dumping	-	-	-	-	-	-	-
Cross-Border Share Lending Arrangements	-	-	-	-	-	-	-
Sales and Excise Tax Measures							
GST/HST Health Measures	-	-	-	-	-	-	-
Cannabis Taxation	-	-	-	-	-	-	-
Total Tax Measures Included in Budget 2019							
- Gross Impact	-	63	304	428	522	563	1,879
- Net Fiscal Impact	-	18	199	298	372	398	1,284
Of Which: Amounts Only in this Annex (*)	-	-	-	2	4	5	11

[1] A "–" indicates a nil amount, a small amount (less than $500,000) or an amount that cannot be determined in respect of a measure that is intended to protect the tax base.

[2] Totals may not add due to rounding.

[3] The cost of this measure is attributable to program expenditure.

Personal Income Tax Measures

Canada Training Credit

Budget 2019 proposes to introduce the Canada Training Benefit to address barriers to professional development for working Canadians. The Canada Training Benefit will include as one of its key components the new Canada Training Credit, a refundable tax credit aimed at providing financial support to help cover up to half of eligible tuition and fees associated with training. Eligible individuals will accumulate $250 each year in a notional account which can be accessed for this purpose.

In order to accumulate the amount of $250 in respect of a year, an individual must:

- file a tax return for the year;
- be at least 25 years old and less than 65 years old at the end of the year;
- be resident in Canada throughout the year;
- have earnings (including income from an office or employment, self-employment income, Maternity and Parental Employment Insurance benefits or benefits paid under the *Act respecting parental insurance*, the taxable part of scholarship income, and the tax-exempt part of earnings of status Indians and emergency service volunteers) of $10,000 or more in the year; and
- have individual net income for the year that does not exceed the top of the third tax bracket for the year ($147,667 in 2019).

A taxpayer's notional account balance will be communicated to them each year in their Notice of Assessment and will be available through the Canada Revenue Agency's My Account portal. The amount of a credit that can be claimed for a taxation year will be equal to the lesser of half of the eligible tuition and fees paid in respect of the taxation year and the individual's notional account balance for the taxation year (based on amounts used or accumulated in respect of previous years). The amount claimed will offset, dollar for dollar, tax otherwise payable or will be refunded to the individual to the extent that the amount exceeds tax otherwise payable.

An individual who claims the credit for a given taxation year may still accumulate an entitlement to $250 in respect of that year. The credit will be available to be claimed for a taxation year even if the individual's earnings or income preclude them from accumulating an amount in respect of that year. However, an individual must be resident in Canada throughout a year to claim the credit for the year.

Individuals will be able to accumulate up to a maximum amount of $5,000 over a lifetime. Any unused balance will expire at the end of the year in which an individual turns 65.

Example:

- Michelle is eligible to accumulate an amount of $250 in respect of each year starting in 2019. Her notional account balance for 2023 is $1,000.
- In 2023, Michelle enrols in training and pays $1,500 in eligible tuition fees. She can claim a refundable tax credit worth $750 for the 2023 taxation year.
- Michelle is also eligible to accumulate an amount of $250 in respect of 2023. As a result, her notional account balance for 2024 is $500 ($250 in unused balance from the prior year in addition to the annual $250 amount). She will then be able to accumulate up to an additional $3,750 in her notional account over her lifetime.

Eligible Tuition and Other Fees

Tuition and other fees eligible for the Canada Training Credit will generally be the same as under the existing rules for the Tuition Tax Credit, a 15-per-cent non-refundable tax credit on fees paid in respect of a year for an individual enrolled at an eligible educational institution. In particular, eligible fees will include:

- tuition fees;
- ancillary fees and charges (e.g., admission fees, exemption fees and charges for a certificate, diploma or degree); and
- examination fees.

As in the case of the Tuition Tax Credit, an eligible educational institution in Canada will be:

- a university, college or other educational institution providing courses at a post-secondary level; or
- an institution providing occupational-skills courses that is certified by the Minister of Employment and Social Development.

Unlike the Tuition Tax Credit, educational institutions outside of Canada will not be eligible for the purpose of the Canada Training Credit.

The portion of the tuition fees refunded through the Canada Training Credit will not qualify as eligible expenses under the Tuition Tax Credit. The difference between the total eligible fees and the portion refunded through the Canada Training Credit will continue to qualify as eligible fees under the Tuition Tax Credit. In the example above, Michelle would have $750 of eligible fees for the purposes of the Tuition Tax Credit (i.e., $1,500 of total eligible fees less the $750 refunded through the Canada Training Credit).

This measure will apply to the 2019 and subsequent taxation years. Consequently, the annual accumulation to the notional account will start based on eligibility in respect of the 2019 taxation year and the credit will be available to be claimed for expenses in respect of the 2020 taxation year.

Earning and income thresholds under the Canada Training Credit will be subject to annual indexation.

Home Buyers' Plan

The home buyers' plan (HBP) helps first-time home buyers save for a down payment by allowing them to withdraw up to $25,000 from a registered retirement savings plan (RRSP) to purchase or build a home without having to pay tax on the withdrawal. First-time home buyers purchasing a home jointly may each withdraw up to $25,000 from their own RRSP under the HBP.

Amounts withdrawn under the HBP must be repaid to an RRSP over a period not exceeding 15 years, starting the second year following the year in which the withdrawal was made. A special rule denies an RRSP deduction for contributions that are withdrawn under the HBP within 90 days of being contributed.

For HBP purposes, an individual is not considered to be a first-time home buyer if, in the relevant calendar year or in any of the four preceding calendar years,

- the individual, or the individual's spouse or common-law partner, owned and occupied another home, and
- that home was the individual's principal place of residence.

Withdrawal Limit

To provide first-time home buyers with greater access to their RRSPs to purchase or build a home, Budget 2019 proposes to increase the HBP withdrawal limit to $35,000 from $25,000. As a result, a couple will potentially be able to withdraw $70,000 from their RRSPs to purchase a first home.

Special rules under the HBP apply to facilitate the acquisition of a home that is more accessible or better suited for the personal needs and care of an individual who is eligible for the disability tax credit, even if the first-time home-buyer requirement is not met. For these cases, the rules will also be modified to provide the same $35,000 withdrawal limit.

This increase in the HBP withdrawal limit will apply to the 2019 and subsequent calendar years in respect of withdrawals made after Budget Day.

Breakdown of a Marriage or Common-Law Partnership

Budget 2019 also proposes to extend access to the HBP in order to help Canadians maintain homeownership after the breakdown of a marriage or common-law partnership.

Generally, an individual will not be prevented from participating in the HBP because they do not meet the first-time home buyer requirement, provided that the individual lives separate and apart from their spouse or common-law partner for a period of at least 90 days as a result of a breakdown in their marriage or common-law partnership. The individual will be able to make a withdrawal under the HBP if the individual lives separate and apart from their spouse or common-law partner at the time of the withdrawal and began to live separate and apart in the year in which the withdrawal is made or any time in the four preceding years. However, in the case where an individual's principal place of residence is a home owned and occupied by a new spouse or common-law partner, the individual will not be able to make an HBP withdrawal under these rules.

An individual will be required to dispose of their previous principal place of residence no later than two years after the end of the year in which the HBP withdrawal is made. The requirement to dispose of the previous principal place of residence will be waived for individuals buying out the share of the residence owned by the individual's spouse or common-law partner. The existing rule that individuals may not acquire the home more than 30 days before making the HBP withdrawal will also be waived in this circumstance.

Existing HBP rules will otherwise generally apply. For example, an individual's outstanding HBP balance must be nil at the beginning of the year in which the individual makes an HBP withdrawal.

This measure will apply to HBP withdrawals made after 2019.

Change in Use Rules for Multi-Unit Residential Properties

The *Income Tax Act* deems a taxpayer to have disposed of, and reacquired, a property when the taxpayer converts the property from an income-producing use (e.g., a rental property) to a personal use (e.g., a residential property) or *vice versa*. Where the use of an entire property is changed to an income-producing use, or an income-producing property becomes a principal residence, the taxpayer may elect that this deemed disposition not apply. As a consequence, the election can provide a deferral of the realization of any accrued capital gain on the property until it is realized on a future disposition.

As well, where an election is made on a conversion of a property to or from a principal residence, the property can be designated as a taxpayer's principal residence for an additional period of up to four years before or after the period for which the taxpayer could otherwise claim the principal residence exemption in respect of the property (provided no other principal residence exemption is claimed in respect of those additional years).

The deemed disposition also occurs when the use of part of a property is changed. For example, this can occur where a taxpayer owns a multi-unit residential property, such as a duplex, and either starts renting or moves into one of the units. However, under the current rules, a taxpayer cannot elect out of the deemed disposition that arises on a change in use of part of a property.

To improve the consistency of the tax treatment of owners of multi-unit residential properties in comparison to owners of single-unit residential properties, Budget 2019 proposes to allow a taxpayer to elect that the deemed disposition that normally arises on a change in use of part of a property not apply.

This measure will apply to changes in use of property that occur on or after Budget Day.

Permitting Additional Types of Annuities Under Registered Plans

The tax rules allow funds from certain registered plans to be used to purchase an annuity to provide income in retirement, subject to specified conditions. In exchange for a lump-sum amount of funds, an annuity provides a stream of periodic payments to an individual (i.e., the annuitant), generally for a fixed term, for the life of the annuitant or for the joint lives of the annuitant and the annuitant's spouse or common-law partner.

To provide Canadians with greater flexibility in managing their retirement savings, Budget 2019 proposes to permit two new types of annuities under the tax rules for certain registered plans:

- advanced life deferred annuities will be permitted under a registered retirement savings plan (RRSP), registered retirement income fund (RRIF), deferred profit sharing plan (DPSP), pooled registered pension plan (PRPP) and defined contribution registered pension plan (RPP); and
- variable payment life annuities will be permitted under a PRPP and defined contribution RPP.

The measures will apply to the 2020 and subsequent taxation years.

Advanced Life Deferred Annuities

The tax rules generally require an annuity purchased with registered funds to commence by the end of the year in which the annuitant attains 71 years of age.

Budget 2019 proposes to amend the tax rules to permit an advanced life deferred annuity (ALDA) to be a qualifying annuity purchase, or a qualified investment, under certain registered plans. An ALDA will be a life annuity the commencement of which may be deferred until the end of the year in which the annuitant attains 85 years of age.

Qualifying plans

An ALDA will be a qualifying annuity purchase under an RRSP, RRIF, DPSP, PRPP and defined contribution RPP. An ALDA will also be a qualified investment for a trust governed by an RRSP or a RRIF. Qualifying plan terms may need to be amended in order to permit the purchase of an ALDA under such plans.

The value of an ALDA will not be included for the purpose of calculating the minimum amount required to be withdrawn in a year from a RRIF, a PRPP member's account or a defined contribution RPP member's account, after the year in which the ALDA is purchased.

Limits

An individual will be subject to a lifetime ALDA limit equal to 25 per cent of a specified amount in relation to a particular qualifying plan. The specified amount will equal the sum of:

- the value of all property (other than most annuities, including ALDAs) held in the qualifying plan as at the end of the previous year; and
- any amounts from the qualifying plan used to purchase ALDAs in previous years.

In practice, this limit will apply only when an ALDA is purchased or when an additional amount is added to an existing ALDA contract. As a result, an individual will not be required to surrender or dispose of ALDAs in situations where the value of ALDA purchases in previous years exceeds the individual's lifetime ALDA limit for a particular year due to a decline in qualifying plan assets.

An individual will also be subject to a comprehensive lifetime ALDA dollar limit of $150,000 from all qualifying plans. The lifetime ALDA dollar limit will be indexed to inflation for taxation years after 2020, rounded to the nearest $10,000.

Annuity requirements

In order to qualify as an ALDA, the annuity contract will need to state that it intends to qualify as an ALDA and will need to satisfy certain requirements. These include the requirements that the annuity contract:

- provide annual or more frequent periodic payments for the life of the annuitant, or for the joint lives of the annuitant and annuitant's spouse or common-law partner, commencing no later than the end of the year in which the annuitant attains 85 years of age;
- provide, when the annuitant under a joint-life contract dies prior to commencement, payments that commence to the surviving spouse or common-law partner no later than the time at which the payments would have commenced if the annuitant had not died, where the value of the periodic payments must, if the payments commence before that time, be adjusted in accordance with generally accepted actuarial principles;
- provide periodic payments which are equal, except to the extent they are
    - adjusted annually to reflect in whole or in part changes to the Consumer Price Index or a fixed rate specified in the annuity contract not to exceed two per cent per year, or
    - reduced on the death of the annuitant or the annuitant's spouse or common-law partner;
- provide that, following the death of the annuitant, a lump-sum death benefit (if any) provided to a beneficiary does not exceed the premium paid for the annuity less the sum of all payments received by the annuitant or, in the case of a joint-life contract, the sum of all payments received by the annuitant and the annuitant's spouse or common-law partner prior to death;

- permit a refund to the annuitant of any portion of the premium paid for the contract to the extent that the premium paid for the contract exceeded the annuitant's ALDA limit; and
- provide no other payments, such as commutation or cash surrender payments, or payments under a guarantee period.

Tax treatment on death

Annuity payments to the surviving spouse or common-law partner of a deceased annuitant under a joint-life contract will be included in the income of the surviving spouse or common-law partner for tax purposes.

If the beneficiary of a lump-sum death benefit (i.e., a return of all or a portion of the premium paid to purchase the annuity) is the deceased annuitant's surviving spouse or common-law partner, or a financially dependent child or grandchild of the deceased annuitant, the lump-sum death benefit will be included in the income of the beneficiary for tax purposes. All or a portion of that amount will be permitted to be transferred on a tax-deferred basis (or "rollover" basis) to the RRSP, RRIF or other qualifying vehicle of the beneficiary provided that, where the beneficiary is a financially dependent child or grandchild, the beneficiary was dependent on the deceased annuitant by reason of physical or mental infirmity.

If the beneficiary of a lump-sum death benefit is neither the deceased annuitant's surviving spouse or common-law partner nor a financially dependent child or grandchild of the deceased annuitant, the lump-sum death benefit paid to a beneficiary will be included in the income of the deceased annuitant for tax purposes in the year of death.

Non-compliance

If an individual purchases ALDA contracts in excess of their ALDA limit, a tax of one per cent per month will apply to the excess portion. All or some of the tax on the excess portion may be waived or cancelled if the annuitant establishes the excess portion was paid as a consequence of a reasonable error, and the amount of the excess portion is returned to an RRSP, RRIF or other eligible vehicle of the annuitant by the end of the year following the year in which the excess portion was paid.

If an annuity contract that is intended to qualify as an ALDA does not comply with the ALDA requirements, it will be considered to be a non-qualifying annuity purchase or a non-qualified investment, as the case may be, and will be subject to the existing rules and taxes that apply to such purchases and investments.

Additional rules

Additional rules will be included, as necessary, in the draft amendments for the measure to be released for public comment.

Variable Payment Life Annuities

The tax rules generally require that retirement benefits from a PRPP or defined contribution RPP be provided to a member by means of a transfer of funds from the member's account to an RRSP or RRIF of the member, variable benefits paid from the member's account or an annuity purchased from a licensed annuities provider. However, in-plan annuities (annuities provided to members directly from a PRPP or defined contribution RPP) are generally not permitted under the tax rules.

Budget 2019 proposes to amend the tax rules to permit PRPPs and defined contribution RPPs to provide a variable payment life annuity (VPLA) to members directly from the plan. A VPLA will provide payments that vary based on the investment performance of the underlying annuities fund and on the mortality experience of VPLA annuitants.

Annuities fund

PRPP and defined contribution RPP administrators will be permitted to establish a separate annuities fund under the plan to receive transfers of amounts from members' accounts to provide VPLAs. Only transfers from a member's account will be permitted to be made to the annuities fund. Direct employee and employer contributions to the annuities fund will not be permitted.

A minimum of 10 retired members will be required to participate in a VPLA arrangement in order for a plan to establish such an arrangement and it must be reasonable to expect that at least 10 retired members will participate in the arrangement on an ongoing basis.

Annuity requirements

VPLAs will be required to comply with certain existing tax rules applicable to PRPPs and defined contribution RPPs, as well as additional requirements. Specifically, a VPLA must:

- commence payments by the later of the end of the year in which the member attains 71 years of age and the end of the calendar year in which the VPLA is acquired;
- provide annual or more frequent periodic payments, after commencement, for the life of the annuitant, or for the joint-lives of the annuitant and the annuitant's spouse or common-law partner;
- provide periodic payments that reflect the value of the amount transferred from the member's account to acquire the VPLA, in accordance with generally accepted actuarial principles;
- provide periodic payments which are equal, except to the extent they are
  - adjusted annually to reflect in whole or in part changes to the Consumer Price Index or a fixed rate specified in the annuity contract not to exceed two per cent per year,
  - reduced on the death of the annuitant or the annuitant's spouse or common-law partner, or
  - adjusted to reflect the investment performance of the annuities fund and the mortality experience of the pool of VPLA annuitants;

- adjust periodic payments on an annual basis to reflect the investment performance of the annuities fund, if the investment performance differs materially compared to the investment performance under the assumptions on which the VPLA payments are based;
- adjust periodic payments on an annual basis to reflect the mortality experience of VPLA annuitants, if the mortality experience differs materially compared to the mortality assumptions on which the VPLA payments are based;
- provide that continuing periodic payments to a beneficiary under a guarantee period following the death of the annuitant, or the annuitant's spouse or common-law partner, reflect the periodic payments that would have been payable to the annuitant, or the annuitant's spouse or common-law partner, if they were alive; and
- provide that the commuted value of any remaining periodic payments payable to a beneficiary under a guarantee period following the death of the annuitant, or the annuitant's spouse or common-law partner, be determined in accordance with generally accepted actuarial principles.

Tax treatment on death

The tax treatment of VPLAs on the death of the annuitant will reflect the existing tax treatment of annuities purchased with PRPP and defined contribution RPP savings.

Non-compliance

The existing rules for PRPPs and defined contribution RPPs relating to non-compliance will apply in respect of non-compliance with the tax rules for VPLAs.

Additional rules

Additional rules will be included, as necessary, in the draft amendments for the measure to be released for public comment.

Pension benefits standards legislation

The Government will consult on potential changes to federal pension benefits standards legislation to accommodate VPLAs for federally regulated PRPPs and defined contribution RPPs. To the extent that provinces wish to accommodate VPLAs for provincially regulated PRPPs and defined contribution RPPs, they may need to amend their provincial pension benefits standards legislation.

Registered Disability Savings Plan – Cessation of Eligibility for the Disability Tax Credit

The registered disability savings plan (RDSP) is a tax-assisted savings vehicle intended to help an individual with a disability – and the individual's family – save for the individual's long-term financial security. An RDSP may be established only for a beneficiary who is eligible for the disability tax credit (DTC).

To encourage long-term saving, the Government of Canada supplements private RDSP contributions with Canada Disability Savings Grants and provides Canada Disability Savings Bonds under the Canada Disability Savings Program. These grants and bonds are eligible to be paid into an RDSP until the end of the year in which a beneficiary of the RDSP turns 49 years of age.

Current Treatment

When a beneficiary of an RDSP ceases to be eligible for the DTC, no contributions may be made to, and no Canada Disability Savings Grants and Canada Disability Savings Bonds may be paid into, the RDSP. The income tax rules generally require that the RDSP be closed by the end of the year following the first full year throughout which the beneficiary is not eligible for the DTC.

An RDSP issuer is required to set aside an amount (referred to as the "assistance holdback amount") equivalent to the total Canada Disability Savings Grants and Canada Disability Savings Bonds paid into the RDSP in the preceding 10 years, less any of these grants and bonds that have been repaid in respect of that 10-year period. This requirement ensures that RDSP funds are available to meet potential repayment obligations. Upon plan closure, the assistance holdback amount must be repaid to the Government. Any assets remaining in the RDSP after this repayment are paid to the beneficiary.

Previous amendments to the *Income Tax Act* allow an RDSP plan holder to elect to extend the period for which an RDSP may remain open after a beneficiary becomes ineligible for the DTC. To qualify for this extension, a medical practitioner must certify in writing that the nature of the beneficiary's condition makes it likely that the beneficiary will, because of the condition, be eligible for the DTC in the foreseeable future.

During the period for which an election is valid, the following rules apply, commencing with the first full calendar year throughout which the beneficiary is no longer eligible for the DTC:

- No contributions to the RDSP, including rollovers of registered education savings plan investment income, are permitted. The income tax rules do permit, however, a rollover of proceeds from a deceased individual's registered retirement savings plan or registered retirement income fund to the RDSP of a financially dependent infirm child or grandchild.
- The beneficiary is not eligible to receive Canada Disability Savings Grants or Canada Disability Savings Bonds and no new entitlements are generated in respect of any year throughout which the beneficiary is ineligible for the DTC.
- If the beneficiary dies during the election period, the RDSP is closed and the assistance holdback amount, determined immediately prior to the beneficiary becoming ineligible for the DTC, must be repaid to the Government.
- Withdrawals from the RDSP are permitted, subject to the regular repayment rules and the maximum and minimum withdrawal rules. For example, for each $1 withdrawn from an RDSP, $3 of any Canada Disability Savings Grants or Canada Disability Savings Bonds paid into the plan in the 10 years preceding the withdrawal must be repaid, up to the maximum of the assistance holdback amount, determined immediately prior to the beneficiary becoming ineligible for the DTC (referred to as the "proportional repayment rule").

An election is generally valid until the end of the fourth calendar year following the first full calendar year throughout which a beneficiary is ineligible for the DTC. If a beneficiary becomes eligible for the DTC while an election is valid, the regular RDSP rules apply commencing with the year in which the beneficiary becomes eligible. If the beneficiary does not regain eligibility for the DTC during the election period, the RDSP must be closed by the end of the first year following the end of the election period and the assistance holdback amount, determined immediately prior to cessation of the beneficiary's eligibility for the DTC, must be repaid to the Government.

Concerns have been raised that the requirements that an RDSP be closed and the assistance holdback amount repaid to the Government upon loss of eligibility for the DTC do not appropriately recognize the period of severe and prolonged disability experienced by an RDSP beneficiary.

Proposed Treatment

Budget 2019 proposes to remove the time limitation on the period that an RDSP may remain open after a beneficiary becomes ineligible for the DTC and to eliminate the requirement for medical certification that the beneficiary is likely to become eligible for the DTC in the future in order for the plan to remain open. The general rules that currently apply in respect of a period during which an election is valid, as described above, will apply to an RDSP in any period during which the beneficiary is ineligible for the DTC, with the following modifications:

- There will be no requirement for medical certification that the individual is likely to become eligible for the DTC in the future.
- Withdrawals from the RDSP will be subject to the proportional repayment rule, but the assistance holdback amount will be modified, depending on the beneficiary's age, in the following manner:
  - For years throughout which the beneficiary is ineligible for the DTC that are prior to the year in which the beneficiary turns 51 years of age, the assistance holdback amount will be equal to the assistance holdback amount determined immediately prior to the beneficiary becoming ineligible for the DTC, less any repayments made after the beneficiary becomes ineligible for the DTC.
  - Over the following 10 years, the assistance holdback amount will be reduced based on Canada Disability Savings Grants and Canada Disability Savings Bonds paid into the RDSP during a reference period. This reference period is initially the 10 years immediately prior to the beneficiary becoming ineligible for the DTC. Each year after the year in which the beneficiary turns 50 years of age, the reference period is reduced by a year. For example, for the year in which the beneficiary turns 51 years of age, the reference period will be the nine-year period immediately prior to the beneficiary becoming ineligible for the DTC. The assistance holdback amount will be equal to the amount of grants and bonds paid into the RDSP in those nine years, less any repayments of those amounts.
- A rollover of proceeds from a deceased individual's registered retirement savings plan or registered retirement income fund to the RDSP of a financially dependent infirm child or grandchild will be permitted only if the rollover occurs by the end of the fourth calendar year following the first full calendar year throughout which the beneficiary is ineligible for the DTC.

- A plan holder may, at any time during which the beneficiary is ineligible for the DTC, request closure of the RDSP of the beneficiary. Closure of an RDSP will be subject to the general rules that apply in the event of a closure, with the exception that the amount required to be repaid upon closure will be equal to the assistance holdback amount at that time, as modified above.

Example:

- Bruce's parents open an RDSP for him in 2009 at age five and contribute $1,500 to his plan annually for 10 years, attracting the maximum amount of Canada Disability Savings Grants ($3,500) each year. For 2019, the assistance holdback amount for his plan equals $35,000. While his parents continue to contribute $1,500 to his plan each year for the subsequent five years (attracting the maximum $3,500 annually in Canada Disability Savings Grants), the assistance holdback amount for his plan remains at $35,000, as grants received during the first five years that fall out of the assistance holdback amount, are replaced with new grant amounts.
- The effects of Bruce's disability improve such that he is determined to no longer be eligible for the DTC after 2023. Under the current rules, unless Bruce regains eligibility for the DTC, his plan would have to be closed by the end of 2025 (or by the end of 2029 under an election) and all Canada Disability Savings Grants received over the 2014 to 2023 period would have to be repaid.
- Under the proposed approach, Bruce could choose not to close his plan. While his plan remains open:
  - Withdrawals are allowed (up to the assistance holdback amount and subject to the repayment rules and the minimum and maximum withdrawal rules) but no contributions are permitted (except a rollover from an eligible registered retirement savings plan or registered retirement income fund before the end of 2028).
  - His assistance holdback amount is frozen at $35,000 until the year he turns age 51 (in 2055), when the amount of his assistance holdback amount begins to decline by $3,500 each year.

By 2064, the year Bruce turns age 60, he will be able to withdraw amounts from his RDSP and no longer be required to repay Canada Disability Savings Grants, as his assistance holdback amount has now been reduced to zero.

If a beneficiary regains eligibility for the DTC, the regular RDSP rules will apply commencing with the year in which the beneficiary becomes eligible for the DTC. For example, contributions will be permitted and new Canada Disability Savings Grants and Canada Disability Savings Bonds may be paid into the RDSP. Should the beneficiary become ineligible for the DTC at some later time, the proposed rules in respect of DTC ineligibility will resume.

This measure will apply after 2020. An RDSP issuer will not, however, be required to close an RDSP on or after Budget Day and before 2021 solely because the RDSP beneficiary is no longer eligible for the DTC.

Tax Measures for Kinship Care Providers

A number of provinces and territories offer kinship and close-relationship care programs (referred to as kinship care programs), such as the Prince Edward Island Grandparents and Care Providers program, as alternatives to foster care (or other formal care by the state) for children in need of protection who require out-of-home care on a temporary basis. As part of their kinship care programs, some of these jurisdictions provide financial assistance to care providers to help defray the costs of caring for the child.

Canada Workers Benefit

The Canada Workers Benefit is a refundable tax credit that supplements the earnings of low-income workers and improves work incentives for low-income Canadians. A higher benefit amount is provided to eligible families (couples and single parents) than to single individuals without dependants.

In order for an individual to be eligible as a single parent under the Canada Workers Benefit, the individual must be the parent of a child with whom the individual resides at the end of the taxation year. For income tax purposes, a parent includes an individual upon whom a child is wholly dependent for support. A concern has been raised that receipt of financial assistance under a kinship care program could preclude a care provider from being considered to be the parent of a child in their care for the purposes of the Canada Workers Benefit.

Budget 2019 proposes to amend the *Income Tax Act* to clarify that an individual may be considered to be the parent of a child in their care for the purpose of the Canada Workers Benefit, regardless of whether they receive financial assistance from a government under a kinship care program. Kinship care providers will thus be eligible for the Canada Workers Benefit amount available for families, provided all other eligibility requirements are met.

This measure will apply for the 2009 and subsequent taxation years.

Tax Treatment of Financial Assistance Payments

Under the *Income Tax Act*, social assistance payments made on the basis of a means, needs or income test are not taxable but must be included in income for the purposes of determining entitlement to income-tested benefits and credits. A concern has been raised that financial assistance payments received under certain kinship care programs may reduce benefit levels for some lower-income kinship care providers.

Budget 2019 also proposes to amend the *Income Tax Act* to clarify that financial assistance payments received by care providers under a kinship care program are neither taxable, nor included in income for the purposes of determining entitlement to income-tested benefits and credits.

This measure will apply for the 2009 and subsequent taxation years.

Donations of Cultural Property

The Government of Canada provides certain enhanced tax incentives to encourage donations of cultural property to certain designated institutions and public authorities in Canada, in order to ensure that such property remains in Canada for the benefit of Canadians. The enhanced tax incentives include a charitable donation tax credit (for individuals) or deduction (for corporations), which may eliminate the donor's tax liability for a year, and an exemption from income tax for any capital gains arising on the disposition.

To qualify for the incentives, a donated property must be of "outstanding significance" by reason of its close association with Canadian history or national life, its aesthetic qualities or its value in the study of the arts or sciences. In addition, it must be of "national importance" to such a degree that its loss to Canada would significantly diminish the national heritage. These requirements are set out in the *Cultural Property Export and Import Act* and are also used to regulate the export of cultural property out of Canada.

A recent court decision related to the export of cultural property interpreted the "national importance" test as requiring that a cultural property have a direct connection with Canada's cultural heritage. This decision has raised concerns that certain donations of important works of art that are of outstanding significance but of foreign origin may not qualify for the enhanced tax incentives.

To address these concerns, Budget 2019 proposes to amend the *Income Tax Act* and the *Cultural Property Export and Import Act* to remove the requirement that property be of "national importance" in order to qualify for the enhanced tax incentives for donations of cultural property. No changes are proposed that would affect the export of cultural property.

This measure will apply in respect of donations made on or after Budget Day.

Medical Expense Tax Credit

The medical expense tax credit is a 15-per-cent non-refundable tax credit that recognizes the effect of above-average medical or disability-related expenses on an individual's ability to pay tax. For 2019, the medical expense tax credit is available for qualifying medical expenses in excess of the lesser of $2,352 and three per cent of the individual's net income.

Amounts paid for cannabis products may be eligible for the medical expense tax credit where such products are purchased for a patient for medical purposes in accordance with the *Access to Cannabis for Medical Purposes Regulations*, under the *Controlled Drugs and Substances Act*. However, cannabis is no longer regulated under this Act. Instead, as of October 17, 2018, access to cannabis is subject to the *Cannabis Regulations*, under the *Cannabis Act.* Eligible expenses for the medical expense tax credit will also include expenses for other classes of cannabis products purchased for a patient for medical purposes, once they become permitted for legal sale under the *Cannabis Act*.

Budget 2019 proposes to amend the *Income Tax Act* to reflect the current regulations for accessing cannabis for medical purposes.

This measure will apply to expenses incurred on or after October 17, 2018.

Contributions to a Specified Multi-Employer Plan for Older Members

In general, the pension tax rules effectively ensure that contributions to a defined benefit registered pension plan (RPP) in respect of a member are not made after the member can no longer accrue further pension benefits. Under the tax rules, pension benefits may not be accrued by a member after the end of the year in which the member attains 71 years of age or if the member has returned to work for the same or a related employer and is receiving a pension from the plan (except under a qualifying phased retirement program).

However, in the case of a specified multi-employer plan (SMEP), a specific type of union-sponsored, defined benefit pension plan, employer contributions are deemed to be eligible contributions in order to ensure that such plans can operate effectively under the pension tax rules. Consequently, and in contrast to other defined benefit RPPs, employers are not prevented by the pension tax rules from making contributions to a SMEP in respect of workers over age 71 or those receiving a pension from the plan, if such contributions are required by the plan. Furthermore, in requiring an employer to contribute in respect of employed union members, some collective bargaining agreements and SMEP plan terms do not prevent contributions in respect of workers in these situations. Such contributions do not benefit the member because they can no longer accrue any corresponding pension benefits under the plan.

To bring the SMEP rules in line with the pension tax provisions that apply to other defined benefit RPPs, Budget 2019 proposes to amend the tax rules to prohibit contributions to a SMEP in respect of a member after the end of the year the member attains 71 years of age and to a defined benefit provision of a SMEP if the member is receiving a pension from the plan (except under a qualifying phased retirement program). The proposed changes will ensure that employers do not make pension contributions on behalf of older SMEP members in these situations from which they cannot benefit.

To provide SMEP sponsors and employers with a flexible transition period, this measure will apply in respect of SMEP contributions made pursuant to collective bargaining agreements entered into after 2019, in relation to contributions made after the date the agreement is entered into.

Pensionable Service Under an Individual Pension Plan

An individual pension plan (IPP) is a defined benefit registered pension plan that has fewer than four members, at least one of whom (e.g., a controlling shareholder) is related to an employer that participates in the plan. IPPs provide businesses with a mechanism to provide lifetime retirement benefits to owner-managers in respect of their employment.

When an individual terminates membership in a defined benefit registered pension plan, the income tax rules allow for a tax-deferred transfer of all or a portion of the commuted value of the member's accrued benefits in one of two ways:

- a transfer of the full commuted value to another defined benefit plan sponsored by another employer; or
- subject to a prescribed transfer limit (normally about 50 per cent of the member's commuted value), a transfer of a portion of the commuted value to the member's registered retirement savings plan or similar registered plan.

Planning is being undertaken that seeks to circumvent these prescribed transfer limits. This planning is effected by establishing an IPP sponsored by a newly incorporated private corporation controlled by an individual who has terminated employment with their former employer. The individual then transfers the commuted value of their pension entitlement from the former employer's defined benefit plan to the new IPP. This planning seeks to obtain a 100-per-cent transfer of assets to the new IPP instead of the restricted transfer of assets to the individual's registered retirement savings plan.

To prevent this inappropriate planning, Budget 2019 proposes to prohibit IPPs from providing retirement benefits in respect of past years of employment that were pensionable service under a defined benefit plan of an employer other than the IPP's participating employer (or its predecessor employer). Any assets transferred from a former employer's defined benefit plan to an IPP that relate to benefits provided in respect of prohibited service will be considered to be a non-qualifying transfer that is required to be included in the income of the member for income tax purposes.

This measure applies to pensionable service credited under an IPP on or after Budget Day.

Mutual Funds: Allocation to Redeemers Methodology

Mutual fund trusts are commonly used vehicles for the pooling and investment of funds. Although a mutual fund trust is considered to be a separate taxpayer, its conduit nature is recognized in the *Income Tax Act*. In particular, if a mutual fund trust's capital gains or ordinary income for the year are allocated to its unitholders, the mutual fund trust will be entitled to a deduction for such allocated amounts in computing its income.

When a mutual fund trust disposes of investments to fund a redemption of its units, any accrued gain on the investments is realized by the trust and is subject to tax, and may be taxed again in the hands of the unitholder who disposes of units at a redemption price that reflects this accrued gain. Mutual fund trusts have access to a capital gains refund mechanism under the *Income Tax Act*, which is intended to address this potential for "double taxation". This mechanism provides a refund to the mutual fund trust in respect of tax that the mutual fund trust has paid on its capital gains attributable to redeeming unitholders. However, because this mechanism is a formulaic approximation, it does not always fully relieve "double taxation".

The "allocation to redeemers methodology" was developed to more effectively match the capital gains realized by the mutual fund trust on its investments with the capital gains realized by the redeeming unitholders on their units. This methodology, which is used by many mutual fund trusts, allows a mutual fund trust to allocate capital gains realized by it to a redeeming unitholder and claim a corresponding deduction. The allocated capital gains are included in computing the redeeming unitholder's income but its redemption proceeds are reduced by that amount.

Deferral

Certain mutual fund trusts have been using the allocation to redeemers methodology to allocate capital gains to redeeming unitholders in excess of the capital gains that would otherwise have been realized by these unitholders on the redemption of their units. This results in the following consequences:

- the mutual fund trust is allowed a deduction in respect of the full allocated amount;
- the redeeming unitholder is taxed on the same overall amount of capital gain as if no allocation were made to it; in particular, because the allocation reduces the unitholder's redemption proceeds,
  - a portion of the allocation effectively eliminates the capital gain that would have been realized by that unitholder on the redemption and so the unitholder is taxed only on that allocated portion, and
  - the excess portion of the allocation effectively results in a capital loss on the redemption for that unitholder that completely offsets the portion of the allocation included in the unitholder's income; and
- because the excess portion does not need to be allocated by the mutual fund trust to the remaining holders, it is reflected as an unrealized gain in the units held by them. This unrealized capital gain is taxed only when the remaining unitholders redeem their units.

From a policy perspective, any amount of capital gains realized by a mutual fund trust in a taxation year in excess of the capital gains realized by redeeming unitholders on their units in that year should be taxed in that taxation year either at the mutual fund trust level or, more typically, in the hands of the remaining unitholders. Therefore, this planning results in an inappropriate deferral of the taxation of the excess amount for these remaining unitholders.

Budget 2019 proposes to introduce a new rule that would deny a mutual fund trust a deduction in respect of the portion of an allocation made to a unitholder on a redemption of a unit of the mutual fund trust that is greater than the capital gain that would otherwise have been realized by the unitholder on the redemption, if the following conditions are met:

- the allocated amount is a capital gain; and
- the unitholder's redemption proceeds are reduced by the allocation.

This measure will apply to taxation years of mutual fund trusts that begin on or after Budget Day.

Character Conversion

Certain mutual fund trusts have also been using the allocation to redeemers methodology in a way that allows the mutual fund trust to convert the returns on an investment that would have the character of ordinary income to capital gains for their remaining unitholders. This character conversion planning is possible when the redeeming unitholders hold their units on income account but other unitholders hold their units on capital account.

Although this misuse of the allocation to redeemers methodology (as well as the planning described under "Deferral") can be challenged by the Government based on existing rules in the *Income Tax Act*, these challenges could be both time-consuming and costly. As a result, the Government is proposing a specific legislative measure.

Budget 2019 proposes to introduce a new rule that will deny a mutual fund trust a deduction in respect of an allocation made to a unitholder on a redemption, if

- the allocated amount is ordinary income; and
- the unitholder's redemption proceeds are reduced by the allocation.

This measure will apply to taxation years of mutual fund trusts that begin on or after Budget Day.

Carrying on Business in a Tax-Free Savings Account

The tax-free savings account (TFSA) is a registered account that allows Canadians to earn tax-free investment income on a wide range of investments. However, a TFSA is liable to pay tax under Part I of the *Income Tax Act* (at the top personal tax rate) on income from a business carried on by the TFSA or from non-qualified investments.

Under the current rules, the trustee of a TFSA (i.e., a financial institution) is jointly and severally liable with the TFSA for Part I tax while the holder of the TFSA is not. In cases where there are insufficient assets within the TFSA to pay any resulting tax liability (e.g., the TFSA holder withdraws the assets or transfers them to a different financial institution), the TFSA's trustee is liable to pay the tax owing. In contrast, a holder of a TFSA is liable for any tax imposed under Part XI.01 of the *Income Tax Act*, which applies in respect of the acquisition of a non-qualified or a prohibited investment by the TFSA.

To recognize that a TFSA's holder is typically in the best position to know whether the activities of the TFSA constitute carrying on a business, Budget 2019 proposes that the joint and several liability for tax owing on income from carrying on a business in a TFSA be extended to the TFSA holder. The joint and several liability of a trustee of a TFSA at any time in respect of business income earned by a TFSA will be limited to the property held in the TFSA at that time plus the amount of all distributions of property from the TFSA on or after the date that the notice of assessment is sent.

This measure will apply to the 2019 and subsequent taxation years.

Electronic Delivery of Requirements for Information

The Canada Revenue Agency (CRA) may issue a requirement for information to oblige a person to provide information or documents for the purposes of the administration and enforcement of various Acts. In many cases, the CRA must send requirements for information by registered mail, certified mail or personal service and is not permitted to send those requirements electronically.

Banks and credit unions are often sent requirements in respect of third-party financial information. These requirements for information are generally sent by registered mail, which is costly and impractical for both the CRA and the banks and credit unions receiving the requirements.

To improve the efficiency of the requirement-for-information process and to reduce administration and compliance costs, Budget 2019 proposes to allow the CRA to send requirements for information electronically to banks and credit unions by amending the following tax statutes: the *Income Tax Act*, the *Excise Tax Act*, the *Excise Act, 2001* and the *Air Travellers Security Charge Act*. Budget 2019 further proposes similar amendments to Part 1 of the *Greenhouse Gas Pollution Pricing Act*, which is also administered by the CRA.

The CRA will be allowed to send requirements for information electronically to a bank or credit union only if the bank or credit union notifies the CRA that it consents to this method of service. This measure will change only the means by which the CRA can issue requirements for information and it will not expand the scope of information that can be requested by the CRA.

This measure will apply as of January 1, 2020.

Business Income Tax Measures

Support for Canadian Journalism

Budget 2019 proposes to introduce three new tax measures to support Canadian journalism:

- allowing journalism organizations to register as qualified donees;
- a refundable labour tax credit for qualifying journalism organizations; and
- a non-refundable tax credit for subscriptions to Canadian digital news.

These measures are intended to provide support to Canadian journalism organizations producing original news.

An independent panel will be established to recommend eligibility criteria for the purposes of these measures. Once the panel has made its recommendations, eligibility of organizations will be evaluated and a recognition process will be put in place.

Qualified Canadian Journalism Organizations

Qualified Canadian Journalism Organization (QCJO) status is a necessary condition for each of the three measures. In order to be a QCJO, an organization will be required to be recognized as meeting criteria developed by the independent panel. This recognition will be made by an administrative body that will be established for this purpose.

A QCJO will be required to be organized as a corporation, partnership or trust. It will need to operate in Canada and meet additional conditions, depending on how it is organized. To qualify as a QCJO, a corporation will be required to be incorporated and resident in Canada. In addition, its chairperson (or other presiding officer) and at least 75 per cent of its directors must be Canadian citizens. In general, in order for a partnership or trust to qualify, such corporations, along with Canadian citizens, must own at least 75 per cent of the interests in it.

In addition, an organization will be required to meet the following conditions to be a QCJO:

- it is primarily engaged in the production of original news content and in particular, the content
  - must be primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and
  - must not be primarily focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment;
- it regularly employs two or more journalists in the production of its content who deal at arm's length with the organization;
- it must not be significantly engaged in the production of content
  - to promote the interests, or report on the activities, of an organization, an association or their members,
  - for a government, Crown corporation or government agency, or
  - to promote goods or services; and

- it must not be a Crown corporation, municipal corporation or government agency.

Qualified Donee Status

The Government of Canada provides support to certain categories of organizations, including charities, that are referred to in the *Income Tax Act* as "qualified donees" and that operate for some broad public purpose. Canadians may claim the charitable donation tax credit (for individuals) or deduction for donations (corporations) for donations to qualified donees. Qualified donees can also receive gifts from Canadian registered charities.

Budget 2019 proposes to add registered journalism organizations as a new category of tax-exempt qualified donee. In order to qualify for registration, a QCJO will be required to apply to the Canada Revenue Agency (CRA) to be registered as a qualified donee and meet certain additional conditions, as described below.

Registered journalism organizations will be required to be corporations or trusts and to have purposes that exclusively relate to journalism. Any business activities carried on by these organizations will be required to be related to their purposes. For example, the sale of news content and advertising would be considered activities related to journalism. These organizations will not be permitted to distribute their profits, if any, or allow their income to be available for the personal benefit of certain individuals connected with the organization.

To ensure that registered journalism organizations are not used to promote the views or objectives of any particular person or related group of persons, a registered journalism organization:

- will be required to have a board of directors or trustees, each of whom deals at arm's length with each other;
- must not be factually controlled by a person (or a group of related persons); and
- must generally not, in any given year, receive gifts that represent more than 20 per cent of its total revenues, including donations, from any one source (excluding bequests and one-time gifts made on the initial establishment of the particular registered journalism organization).

To provide transparency, the names of all registered journalism organizations will be listed on the website of the Government of Canada. Registered journalism organizations will be required to file an annual return with the CRA containing information on their activities. In addition, registered journalism organizations will be required to disclose, in their information returns, the name(s) of any donors that make donations of over $5,000 and the amount donated. Similar to registered charities and registered Canadian amateur athletic associations, these information returns will be made public along with certain additional information.

Qualified donees are required to issue official donation receipts in accordance with the *Income Tax Act*, to maintain proper books and records and to provide access to them upon request by the CRA. As qualified donees, these rules will apply to registered journalism organizations, including the regulatory sanctions for failing to follow these rules (i.e., a monetary penalty, the suspension of its qualified donee status and the revocation of registration).

Where a registered journalism organization no longer meets the requirements for registration as a qualified donee (including because it fails to qualify as a QCJO), the CRA will have the authority to revoke its registration. Where a journalism organization's registration is revoked, it will no longer be exempt from income tax as a registered journalism organization and will no longer be entitled to issue charitable donation receipts.

Where the CRA proposes to revoke the registration of a registered journalism organization, it will be able to file an objection with the Appeals Branch of the CRA. If the organization disagrees with the decision of the Appeals Branch, it will be entitled to appeal the decision to the Federal Court of Appeal.

This measure will apply as of January 1, 2020.

Refundable Labour Tax Credit

Budget 2019 proposes to introduce a 25-per-cent refundable tax credit on salary or wages paid to eligible newsroom employees of qualifying QCJOs. This will be subject to a cap on labour costs of $55,000 per eligible newsroom employee per year, which will provide a maximum tax credit in respect of eligible labour costs per individual per year of $13,750. To qualify for this credit, a QCJO must be a corporation, partnership or trust primarily engaged in the production of original written news content. A QCJO carrying on a broadcasting undertaking (as defined in the *Broadcasting Act*) will not qualify for this credit. A QCJO will also not qualify for this credit in a taxation year if it receives funding from the Aid to Publishers component of the Canada Periodical Fund in that taxation year.

A QCJO that is a corporation will be required to meet the following additional requirements in order to qualify:

- if it is a public corporation, it must be listed on a stock exchange in Canada and not be controlled by non-Canadian citizens; and
- if it is a private corporation, it must be at least 75-per-cent owned by Canadian citizens or by public corporations described above.

As noted above, an independent panel will be established to consider eligibility criteria for purposes of this measure. Initially, an eligible newsroom employee will generally be an employee of a QCJO who works for a minimum of 26 hours per week, on average, and is employed by the QCJO (or is expected to be employed) for at least 40 consecutive weeks. In addition, an eligible newsroom employee will be required to spend at least 75 per cent of their time engaged in the production of news content, including by researching, collecting information, verifying facts, photographing, writing, editing, designing and otherwise preparing content. These rules will be amended if necessary, pending the work completed by the independent panel.

Eligible expenses will include salary or wages paid to eligible newsroom employees in respect of a taxation year and will be reduced by the amount of any government or other assistance received by the QCJO in the taxation year. In addition, salary or wages will be eligible expenses of an organization only if they are in respect of a period throughout which it is a QCJO.

A registered journalism organization, which will be exempt from income tax, may also be entitled to this refundable tax credit in respect of its eligible expenses.

This measure will apply to salary or wages earned in respect of a period on or after January 1, 2019. The administrative body will be able to recognize organizations as of that date, in order to ensure the credit is available as intended.

Personal Income Tax Credit for Digital Subscriptions

Budget 2019 proposes a temporary, non-refundable 15-per-cent tax credit on amounts paid by individuals for eligible digital news subscriptions. This will allow individuals to claim up to $500 in costs paid towards eligible digital subscriptions in a taxation year, for a maximum tax credit of $75 annually. In the case of combined digital and newsprint subscriptions, individuals will be limited to claiming the cost of a stand-alone digital subscription.

Eligible digital subscriptions are those that entitle a taxpayer to access content provided in a digital form by a QCJO that is primarily engaged in the production of written content. A subscription with a QCJO carrying on a broadcasting undertaking (as defined in the *Broadcasting Act*) will not qualify for this credit.

Amounts paid to an organization will be eligible only if, at the time they are paid, the organization is a QCJO. If an organization ceases to qualify as a QCJO, that will not cause amounts paid by individuals for subscriptions prior to the loss of QCJO status to cease to qualify for the credit.

This credit will be available in respect of eligible amounts paid after 2019 and before 2025.

Business Investment in Zero-Emission Vehicles

The capital cost allowance (CCA) system determines the deductions that a business may claim each year for income tax purposes in respect of the capital cost of its depreciable property. With some exceptions, depreciable property is divided into CCA classes and a CCA rate for each class of property is prescribed in the *Income Tax Regulations*.

Prior to November 21, 2018, the CCA allowed in the first year that a property was available for use was generally limited to half the amount that would otherwise be available. On November 21, 2018, the Government announced a temporary enhanced first-year allowance, referred to as the Accelerated Investment Incentive, equal to up to three times the previously applicable first-year allowance and a temporary 100-per-cent deduction for certain classes.

Motor vehicles are generally included in Class 10, Class 10.1 or Class 16 and are currently subject to the following effective CCA rates.

Table 2

Effective CCA Rates for Main CCA Classes Containing Motor Vehicles

	CCA Rate	Effective First-Year CCA	
		Prior to November 21, 2018	Accelerated Investment Incentive
Class 10			
• includes most motor vehicles not included in any other class	30%	15%	45%
Class 10.1			
• includes passenger vehicles that cost more than $30,000 (before sales taxes)	30%	15%	45%
• the maximum capital cost that can be added to the class in respect of each such vehicle is limited to $30,000 plus sales taxes on that amount			
Class 16			
• includes taxi cabs, vehicles acquired for the purpose of short-term renting or leasing, and heavy trucks and tractors designed for hauling freight	40%	20%	60%

Budget 2019 proposes to provide a temporary enhanced first-year CCA rate of 100 per cent in respect of eligible zero-emission vehicles. Two new CCA classes will be created: Class 54 for zero-emission vehicles that would otherwise be included in Class 10 or 10.1; and Class 55 for zero-emission vehicles that would otherwise be included in Class 16. In the case of Class 54, there will be a limit of $55,000 (plus sales taxes) on the amount of CCA deductible in respect of each zero-emission passenger vehicle. This new $55,000 limit will be reviewed annually to ensure that it remains appropriate.

To be eligible for this first-year enhanced allowance, a vehicle must:

- be a motor vehicle as defined in the *Income Tax Act* (i.e., an automotive vehicle for use on streets and highways, but not including a trolley bus or vehicle operated exclusively on rail);
- otherwise be included in Class 10, 10.1 or 16;
- be fully electric, a plug-in hybrid with a battery capacity of at least 15 kWh or fully powered by hydrogen; and
- not have been used, or acquired for use, for any purpose before it is acquired by the taxpayer.

Vehicles in respect of which assistance is paid under the new federal purchase incentive announced in Budget 2019 will be ineligible.

This proposal will also have implications for the Goods and Services Tax/Harmonized Sales Tax (GST/HST). Under the GST/HST, businesses can generally claim input tax credits to recover the GST/HST they pay to acquire inputs for use in their commercial activities. The general policy under the GST/HST is to treat business expenses for passenger vehicles in a manner similar to the treatment under the income tax system.

Accordingly, Budget 2019 proposes to amend the GST/HST to ensure that the treatment of expenses incurred in respect of zero-emission passenger vehicles under the GST/HST parallels the proposed income tax treatment of these vehicles. This will generally result in an increase in the amount of GST/HST that businesses can recover in respect of zero-emission passenger vehicles, subject to limits similar to those under the income tax system.

Application and Phase-Out

This measure will apply to eligible zero-emission vehicles acquired on or after Budget Day and that become available for use before 2028, subject to a phase-out for vehicles that become available for use after 2023 (as shown in Table 3). A taxpayer will be able to claim the enhanced allowance in respect of an eligible zero-emission vehicle only for the taxation year in which the vehicle first becomes available for use.

Table 3
Rates for the First-Year Enhanced Allowance

	First-Year Enhanced Allowance
March 19, 2019 - 2023	100%
2024 - 2025	75%
2026 - 2027	55%
2028 onward	-

CCA will be deductible on any remaining balances in the new classes on a declining-balance basis at a rate of 30 per cent for Class 54 and 40 per cent for Class 55.

Additional Rules

Under the short-taxation-year rule, the amount of CCA that can be claimed in a taxation year must generally be prorated where the taxation year is less than 12 months. This rule will apply to the enhanced allowance for zero-emission vehicles.

As a general rule, the proceeds from the disposition of a depreciable property in a particular CCA class must be deducted from the undepreciated capital cost of property of that class. If at the end of a taxation year the deduction of the proceeds of disposition from the undepreciated capital cost results in a negative balance for the class, this negative amount must generally be included in the taxpayer's income for the year. Conversely, if at the end of a taxation year a taxpayer has no more property in a class but has a positive balance for the class, this positive amount may generally be deducted from the taxpayer's income for the year.

A special rule will apply to adjust the proceeds of disposition to be deducted from the undepreciated capital cost of the property on the disposition of a zero-emission vehicle that is subject to the capital cost limit of $55,000. Specifically, the proceeds of disposition will be adjusted based on a factor equal to the capital cost limit of $55,000 as a proportion of the actual cost of the vehicle (see Table 4 for an example).

Table 4
Example of Adjusted Proceeds of Disposition to be Deducted from the Undepreciated Capital Cost

	First-Year Enhanced Allowance
Acquisition cost (before HST)[1]	$60,000
First-Year CCA	$55,000*100% =$55,000
Undepreciated capital cost	$55,000-$55,000 =$0
Proceeds of disposition	$30,000
Part of proceeds of disposition to be deducted from the undepreciated capital cost	$30,000*($55,000/$60,000) =**$27,500**

[1] Assumes HST province and that all HST is recovered through input tax credits.

An election will be available to forgo Class 54 or 55 treatment and instead include a zero-emission vehicle in Class 10, 10.1 or 16, as the case may be.

The *Income Tax Act* and the *Income Tax Regulations* include a series of rules designed to protect the integrity of the CCA regime and the tax system more broadly (e.g., the leasing property rules). In certain circumstances, these rules can restrict a CCA deduction, or a loss in respect of such a deduction, that would otherwise be available. The integrity rules that currently apply to Classes 10, 10.1 and 16 will apply to Classes 54 and 55.

This proposal is expected to have positive environmental effects, as it is expected to encourage the adoption of technologies that will reduce greenhouse gas (GHG) emissions. A reduction in GHG emissions would contribute to the Federal Sustainable Development Strategy target of reducing Canada's total GHG emissions by 30 per cent, relative to 2005 emissions levels, by 2030.

Small Business Deduction – Farming and Fishing

In general terms, income from an active business carried on in Canada by a Canadian-controlled private corporation (CCPC) is eligible for a reduced rate of taxation under the small business deduction rules in the *Income Tax Act*. As of 2019, these rules allow CCPCs to reduce their federal corporate income tax rate from 15 per cent to 9 per cent on such income, up to $500,000. The *Income Tax Act* contains various rules that are intended to prevent the inappropriate multiplication of this $500,000 limit.

One such rule, enacted in 2016, has the effect of disqualifying "specified corporate income" of a CCPC from eligibility for the small business deduction. This income includes certain amounts earned by a CCPC from sales to a private corporation in which the CCPC, or certain specified persons, holds a direct or indirect interest. However, certain income of a CCPC's farming or fishing business that arises from sales to a farming or fishing cooperative corporation is excluded from specified corporate income and, as a result, such income remains eligible for the small business deduction.

To provide greater flexibility to farming and fishing businesses, Budget 2019 proposes to eliminate the requirement that sales be to a farming or fishing cooperative corporation in order to be excluded from specified corporate income. As such, this exclusion will apply to the income of a CCPC from sales of the farming products or fishing catches of its farming or fishing business to any arm's length purchaser corporation. However, consistent with the existing rules, amounts allocated to a CCPC as patronage payments from a purchaser corporation will not qualify for this exclusion.

This measure will apply to taxation years that begin after March 21, 2016.

Scientific Research and Experimental Development Program

Under the Scientific Research and Experimental Development (SR&ED) tax incentive program, qualifying expenditures are fully deductible in the year they are incurred. In addition, these expenditures are eligible for an investment tax credit. The rate and level of refundability of the credit vary depending on the characteristics of the firm, including its legal status and its size.

- For all corporations other than Canadian-controlled private corporations (CCPCs) and for unincorporated businesses, a 15-per-cent non-refundable tax credit is available on all qualifying SR&ED expenditures.
- For CCPCs, a fully refundable enhanced tax credit at a rate of 35 per cent is available on up to $3 million of qualifying SR&ED expenditures annually. This expenditure limit for a taxation year is gradually phased out based on two factors, which apply on the basis of an associated group.
    - The expenditure limit is reduced where taxable income for the previous taxation year is between $500,000 and $800,000.
    - The expenditure limit is also reduced where taxable capital employed in Canada for the previous taxation year is between $10 million and $50 million.
- Qualifying expenditures in excess of a CCPC's expenditure limit are eligible for the 15-per-cent tax credit. Unused SR&ED credits earned at this rate may be partially refundable depending on the CCPC's taxable income and taxable capital.

Table 5 presents the amount of SR&ED credits on $3 million of SR&ED expenditures at specific levels of taxable capital and taxable income under the current rules. In particular, it illustrates how these credits can be affected by a relatively small change in the amount of taxable income for firms within the phase-out range.

For example, a CCPC that spends $3 million on qualifying SR&ED expenditures in a taxation year, and that has $500,000 of taxable income and $10 million of taxable capital in the previous taxation year, is eligible for the 35-per-cent refundable SR&ED credit on all of its expenditures, resulting in a fully refundable credit of $1.05 million. If the corporation's taxable income for the previous taxation year were $600,000 instead, the total SR&ED tax credits earned would have been $850,000 (of which $700,000 would have been refundable). For this CCPC, a $100,000 increase in taxable income would have resulted in a $200,000 reduction in SR&ED tax credits.

Table 5
Current Tax Credits on $3 Million SR&ED Expenditures, CCPCs
(refundable portion in parentheses) ($ 000s)

Prior-Year Taxable Capital	Prior-Year Taxable Income			
	500	**600**	**700**	**800**
10,000	1,050	850	650	450
	(1,050)	(700)	(350)	(0)
20,000	900	750	600	450
	(788)	(525)	(263)	(0)
30,000	750	650	550	450
	(525)	(350)	(175)	(0)
40,000	600	550	500	450
	(263)	(175)	(88)	(0)
50,000	450	450	450	450
	(0)	(0)	(0)	(0)

Budget 2019 proposes to repeal the use of taxable income as a factor in determining a CCPC's annual expenditure limit for the purpose of the enhanced SR&ED tax credit. As a result, small CCPCs with taxable capital of up to $10 million will benefit from unreduced access to the enhanced refundable SR&ED credit regardless of their taxable income. As a CCPC's taxable capital begins to exceed $10 million, this access will gradually be reduced as shown in the highlighted column in Table 5.

This change will provide a more predictable phase-out of the enhanced SR&ED credit rate, which will more effectively support growing small and medium-sized firms as they scale up.

This measure will apply to taxation years that end on or after Budget Day.

Canadian-Belgian Co-productions – Canadian Film or Video Production Tax Credit

The Canadian film or video production tax credit provides a 25-per-cent refundable tax credit to qualified corporations in respect of qualified labour expenditures of an eligible Canadian film or video production. The maximum amount of Canadian labour costs qualifying for the credit is 60 per cent of the total cost of a production, net of any assistance, with the result that the credit can cover up to 15 per cent of total production costs.

Audiovisual co-production treaties and similar instruments allow productions that are the joint projects of producers from two different countries to qualify in both countries as a treaty co-production, for purposes including the Canadian film or video production tax credit. On March 12, 2018, the Government of Canada and the Belgian linguistic communities signed *The Memorandum of Understanding between the Government of Canada and the Respective Governments of the Flemish, French and German-speaking Communities of the Kingdom of Belgium concerning Audiovisual Coproduction*, modernizing the 1984 film treaty between Canada and Belgium.

Budget 2019 proposes to add this Memorandum of Understanding to the list of instruments under which a film or video production may be produced in order to qualify as a treaty co-production. This measure will allow joint projects of producers from Canada and Belgium to qualify for the Canadian film or video production tax credit.

This measure will apply as of March 12, 2018.

Character Conversion Transactions

In the past, certain taxpayers entered into financial arrangements (character conversion transactions) that sought to reduce tax by converting, with the use of derivative contracts, the returns on an investment that would have the character of ordinary income to capital gains, only 50 per cent of which are included in income.

One type of character conversion transaction involved a taxpayer seeking to gain economic exposure to a portfolio of investments that produces fully taxable ordinary income. The taxpayer would enter into an agreement with a counterparty to acquire Canadian securities at a specified future date. The value of the Canadian securities to be delivered to the taxpayer on the settlement of the forward purchase agreement was based on the performance of the reference portfolio. On the settlement of the forward purchase agreement, the taxpayer acquired the Canadian securities from the counterparty and then immediately resold them for cash. Because the taxpayer made an election to treat its Canadian securities as capital property, it would take the position that any gain realized from their disposition would result in a capital gain.

In response, rules were introduced in 2013 that treat any gain arising from a "derivative forward agreement" as ordinary income rather than as a capital gain. For the purposes of these rules, a derivative forward agreement is defined to include any agreement to purchase a capital property where:

- the term of the agreement (or series of agreements) exceeds 180 days; and
- the difference between the fair market value of the property delivered on settlement of the agreement and the amount paid for the property is derivative in nature (i.e., it is attributable, in whole or in part, to an underlying interest other than certain excluded interests).

This definition also includes agreements to sell a capital property that meet similar conditions.

One important excluded interest is where the economic return from a purchase or sale agreement is based on the economic performance of the actual property being purchased or sold. This exception is intended to exclude certain commercial transactions (e.g., merger and acquisition transactions) from the scope of the derivative forward agreement rules.

An alternative character conversion transaction has been developed that attempts to misuse this commercial transaction exception as it applies to purchase agreements. Under this alternative transaction:

- A first mutual fund (Investor Fund) enters into a forward purchase agreement with a counterparty pursuant to which it agrees to acquire units of a second mutual fund (Reference Fund) at a specified future date, for a purchase price equal to the value of such units at the date the forward purchase agreement is entered into. Reference Fund holds a portfolio of investments that produces fully taxable ordinary income.
- On settlement of the forward purchase agreement, Investor Fund acquires the units of Reference Fund and treats the cost of those units as being equal to the purchase price under the forward purchase agreement.
- Investor Fund then immediately redeems or sells the units of Reference Fund and realizes a gain, which Investor Fund treats as a capital gain, by virtue of making an election to treat its Canadian securities (such as the Reference Fund units) as capital property.

Investor Fund does not treat the forward purchase agreement as giving rise to a "derivative forward agreement" on the basis that the agreement falls within the commercial transaction exception to the definition because Investor Fund's economic return under the forward purchase agreement is based on the economic performance of the acquired units of Reference Fund over the term of the agreement.

In the end, the alternative transaction provides Investor Fund with an economic return that is essentially based on the performance of the portfolio of investments held by Reference Fund which, if the portfolio of investments was held directly by Investor Fund, would include fully taxable ordinary income. However, the transaction is structured in such a way that the entire return is taxed as a capital gain.

Although this alternative transaction can be challenged by the Government based on existing rules in the *Income Tax Act*, these challenges could be both time-consuming and costly. As a result, the Government is proposing a specific legislative measure.

Budget 2019 proposes an amendment that introduces an additional qualification for the commercial transaction exception in the definition "derivative forward agreement" as the exception applies to purchase agreements. In general terms, this amendment will provide that the commercial transaction exception is unavailable if it can reasonably be considered that one of the main purposes of the series of transactions, of which an agreement to purchase a security in the future (or an equivalent agreement) is part, is for a taxpayer to convert into a capital gain an amount paid on the security, by the issuer of the security, during the period that the security is subject to the agreement.

This measure will apply to transactions entered into on or after Budget Day. It will also apply after December 2019 to transactions that were entered into before Budget Day including those that extended or renewed the terms of the agreement on or after Budget Day. This grandfathering will incorporate the same growth limits used under the transitional relief provided under the derivative forward agreement rules introduced in 2013 to ensure that no new money flows into grandfathered transactions on or after Budget Day.

International Tax Measures

Transfer Pricing Measures

In the tax context, "transfer pricing" refers to the prices, and other terms and conditions, used in transactions occurring across international borders by persons who are not dealing at arm's length. These transactions may involve the intra-group purchase or sale of goods, services or intangibles. They may also involve the provision of intra-group financing or loan guarantees. Because these transactions occur across international borders, it is necessary to address the tax issues related to transfer pricing in a broad international context. Member countries of the Organisation for Economic Co-operation and Development, including Canada, have agreed to adopt a standard against which a multinational enterprise's transfer pricing is measured, referred to as the "arm's length principle". The application of this principle protects the tax base against the shifting of income that can potentially result from the discretionary determination of transfer prices by a multinational enterprise.

In Canada, the arm's length principle is reflected in the transfer pricing rules contained in Part XVI.1 of the *Income Tax Act*. Under the transfer pricing rules, where the terms or conditions of a transaction, or series of transactions, between non-arm's length parties do not reflect arm's length terms and conditions, the Canada Revenue Agency may adjust, for the purpose of computing the parties' tax liabilities under the *Income Tax Act*, the quantum or nature of amounts related to the transaction or series between the participants to reflect arm's length terms and conditions.

Budget 2019 proposes two measures concerning the relationship between the transfer pricing rules in Part XVI.1 and other provisions of the *Income Tax Act*.

Order of Application of the Transfer Pricing Rules

As noted, the transfer pricing rules can apply to determine the quantum or nature of amounts relevant to the computation of tax. Other provisions of the *Income Tax Act* can apply to similar effect. Where both the transfer pricing rules and another provision of the *Income Tax Act* may apply to the same amount that is relevant to the computation of tax, questions have arisen as to whether adjustments, if any, under the transfer pricing rules are made in priority to the application of the other provision. This may have various implications, including with respect to the calculation of penalties imposed under Part XVI.1.

To provide greater certainty in the application of the income tax rules, Budget 2019 proposes to amend the *Income Tax Act* to clarify that the transfer pricing rules in Part XVI.1 apply in priority to the application of the provisions in other parts of the *Income Tax Act*, including the provisions relating to income computation in Part I. The current exceptions to the application of the transfer pricing rules that pertain to situations in which a Canadian resident corporation has an amount owing from, or extends a guarantee in respect of an amount owing by, a controlled foreign affiliate will continue to apply.

This measure will apply to taxation years that begin on or after Budget Day.

Applicable Reassessment Period

The transfer pricing rules include an expanded definition of "transaction", which includes an arrangement or event. This allows the transfer pricing rules to apply to the broad range of situations that may arise in the context of a multinational enterprise's operations.

After a taxpayer files an income tax return for a taxation year, the Canada Revenue Agency is required to perform an initial examination of the return and to assess tax payable, if any, with all due dispatch. The Canada Revenue Agency then normally has a fixed period, generally three or four years, after its initial examination beyond which the Canada Revenue Agency is precluded from reassessing the taxpayer.

An extended three-year reassessment period exists in respect of a reassessment made as a consequence of a transaction involving a taxpayer and a non-resident with whom the taxpayer does not deal at arm's length. This is intended to apply in the transfer pricing context. However, the expanded definition of "transaction" used in the transfer pricing rules does not apply for the purposes of the rule establishing this extended reassessment period.

Budget 2019 proposes to amend the *Income Tax Act* to provide that the definition "transaction" used in the transfer pricing rules also be used for the purposes of the extended reassessment period relating to transactions involving a taxpayer and a non-resident with whom the taxpayer does not deal at arm's length.

This measure will apply to taxation years for which the normal reassessment period ends on or after Budget Day.

Foreign Affiliate Dumping

The foreign affiliate dumping rules in the *Income Tax Act* are intended to counter erosion of the tax base resulting from transactions in which a corporation resident in Canada (CRIC) that is controlled by a non-resident buys or otherwise invests in a foreign affiliate using borrowed, or surplus funds. One example of a foreign affiliate dumping transaction involves a CRIC using retained earnings to acquire shares of a foreign affiliate from its foreign parent corporation. Absent the foreign affiliate dumping rules, this transaction would provide a mechanism for the foreign parent corporation to, in effect, extract surplus from the CRIC free of dividend withholding tax.

In general terms, and subject to certain exceptions, the foreign affiliate dumping rules currently apply where a CRIC makes an "investment" (as defined in the rules) in a foreign affiliate of the CRIC and the CRIC is controlled by a non-resident corporation. The rules can also apply where a CRIC makes an investment in a foreign affiliate of a corporation that does not deal at arm's length with the CRIC, if the CRIC or the non-arm's length corporation is controlled by a non-resident corporation. When they apply, the foreign affiliate dumping rules generally result in:

- a suppression of paid-up capital otherwise created because of the investment or a reduction in the paid-up capital of one or more relevant classes of shares of the CRIC (or, in certain cases, a related corporation resident in Canada); and

- a deemed dividend paid by the CRIC to the controlling non-resident (or, where a valid election is made, by another qualifying corporation resident in Canada or to a different non-resident corporation). The amount of the deemed dividend is equal to the amount by which the investment exceeds the amount of the paid-up capital suppressed or reduced. This deemed dividend is subject to non-resident withholding tax, which may be reduced by an applicable tax treaty.

While the foreign affiliate dumping rules currently apply only in respect of CRICs that are controlled by a non-resident corporation (or by a related group of non-resident corporations), similar policy concerns arise where a CRIC that is controlled by a non-resident individual or trust makes an investment in a foreign affiliate.

To better achieve the policy objectives of the foreign affiliate dumping rules, Budget 2019 proposes to extend the application of these rules to CRICs that are controlled by

- a non-resident individual,
- a non-resident trust, or
- a group of persons that do not deal with each other at arm's length, comprising any combination of non-resident corporations, non-resident individuals and non-resident trusts.

Related persons are considered not to deal with each other at arm's length for income tax purposes. To ensure that a non-resident trust will be considered to be related to another non-resident person in circumstances similar to where a non-resident corporation would be so related, the proposals include an extended meaning of "related" that applies for the purpose of determining whether a non-resident trust does not deal at arm's length with another non-resident person.

This measure will apply to transactions and events that occur on or after Budget Day.

Cross-Border Share Lending Arrangements

Securities lending is a long-established practice that plays an important role in capital markets. Certain securities lending arrangements involve a non-resident lending a share to a Canadian resident, and the Canadian resident agreeing to return an identical share to the non-resident in the future. The Canadian resident typically provides collateral as security for the return of the identical share. Over the term of the arrangement, the Canadian resident is obligated to make payments as compensation for any dividends paid by the issuer of the lent share (dividend compensation payments). Ultimately, the non-resident retains the same economic exposure with respect to the lent share as if it had continued to hold the share.

The *Income Tax Act* contains rules that generally seek to put a lender under a securities lending arrangement in the same tax position as if the securities had not been lent. Within the securities lending arrangement rules, there are special rules that determine the character of any dividend compensation payment made by a Canadian resident to a non-resident under such securities lending arrangements for the purposes of the non-resident withholding tax rules in Part XIII of the *Income Tax Act*.

These characterization rules deem a dividend compensation payment made under a "fully collateralized" securities lending arrangement to be a payment made by the Canadian resident to the non-resident of a dividend payable on the lent share. This deemed dividend is subject to Canadian dividend withholding tax. For the purpose of these rules, a securities lending arrangement is "fully collateralized" if the Canadian resident provides collateral to the non-resident in the form of money or government debt obligations with a value of 95 per cent or more of the lent share. This collateral must be in place throughout the term of the securities lending arrangement, and the Canadian resident must be entitled to the benefits of all or substantially all the income from, and opportunity for gain with respect to, the collateral.

If a securities lending arrangement is not "fully collateralized", the dividend compensation payment is instead deemed to be a payment of interest made by the Canadian resident to the non-resident. Since 2008, interest paid to a non-resident with whom a Canadian resident is dealing at arm's length is generally exempt from Canadian withholding tax, unless the interest is participating debt interest.

Canadian Shares

Certain non-residents have engaged in planning intended to avoid Canadian dividend withholding tax on dividend compensation payments made to them in respect of shares of Canadian resident corporations (Canadian shares). Broadly speaking, this planning is effected using two different methods.

The first method involves entering into securities lending arrangements that are structured to not meet the "fully collateralized" test in the *Income Tax Act*, but that are, in substance, fully collateralized. When a securities lending arrangement is not "fully collateralized", the characterization rules apply to deem a dividend compensation payment to be a payment of interest. In these circumstances, these non-residents take the position that the general withholding tax exemption on interest payments applies to this deemed interest payment.

The second method involves entering into securities loans that are designed to fail the requirements of the "securities lending arrangement" definition in the *Income Tax Act*. If a securities loan does not meet that definition, the characterization rules do not apply. As a result, these non-residents take the position that a dividend compensation payment made under such a securities loan is simply a payment made under a derivative contract and is not subject to Canadian withholding tax.

Depending on the particular facts, these arrangements can be challenged by the Government based on existing rules in the *Income Tax Act*. However, as any such challenge could be both time-consuming and costly, the Government is proposing specific legislative measures to ensure that the appropriate tax consequences apply to these arrangements.

To better reflect the policy objective that the Canadian dividend withholding tax consequences for a non-resident lender under a share loan should generally be the same as if it had continued to hold the lent share, Budget 2019 proposes an amendment to ensure that a dividend compensation payment made under a securities lending arrangement by a Canadian resident to a non-resident in respect of a Canadian share is always treated as a dividend under the characterization rules and, accordingly, always subject to Canadian dividend withholding tax.

Budget 2019 also proposes an amendment to apply the characterization rules not only to a "securities lending arrangement", as defined under the *Income Tax Act*, but also to a "specified securities lending arrangement". Budget 2018 introduced the latter definition in the context of a measure intended to prevent taxpayers from realizing artificial losses through the use of equity-based financial arrangements. The definition includes securities loans that are substantially similar to securities lending arrangements.

Finally, Budget 2019 proposes to introduce complementary amendments to ensure that the securities lending arrangement rules cannot be used to obtain other unintended withholding tax benefits. For instance, a rule will be introduced to ensure that the same withholding tax rate under a tax treaty applies to a dividend compensation payment made to a non-resident as to a dividend that would have been paid to that non-resident had it continued to hold the lent Canadian share.

These proposed amendments will apply to compensation payments that are made on or after Budget Day unless the securities loan was in place before Budget Day, in which case the amendments will apply to compensation payments that are made after September 2019.

Foreign Shares

The existing characterization rules may also inappropriately subject dividend compensation payments in respect of lent shares issued by non-resident corporations (foreign shares) to Canadian dividend withholding tax. In particular, if a non-resident lends a foreign share to a Canadian resident under a securities lending arrangement that is "fully collateralized", the characterization rules deem a dividend compensation payment in respect of the foreign share to be a dividend paid by the Canadian resident, rather than by the non-resident issuer of the share, to the non-resident. Canadian dividend withholding tax would therefore apply on the dividend compensation payment. If the non-resident had continued to hold the lent foreign share, it would not have been subject to Canadian dividend withholding tax on a dividend paid by the non-resident issuer of the share.

To address this issue, Budget 2019 proposes an amendment to broaden an existing exemption from Canadian dividend withholding tax so that it includes any dividend compensation payment made by a Canadian resident to a non-resident under a securities lending arrangement if:

- the securities lending arrangement is "fully collateralized"; and
- the lent security is a foreign share.

This proposed amendment will apply to dividend compensation payments that are made on or after Budget Day.

Sales and Excise Tax Measures

GST/HST Health Measures

Under the Goods and Services Tax/Harmonized Sales Tax (GST/HST), tax relief is provided for basic health care services and products. This is achieved by exempting the services of basic health care professionals, such as doctors, dentists and physiotherapists, and zero-rating prescription drugs, certain biologicals and certain specially designed medical devices.

Exempt treatment means that suppliers of exempt health care services do not charge the GST/HST, but they cannot claim input tax credits to recover the GST/HST paid on inputs in relation to these supplies. Zero-rating means that suppliers do not charge purchasers the GST/HST on these supplies and are entitled to claim input tax credits to recover the GST/HST paid on inputs in relation to these supplies. The health care services and medical items eligible for GST/HST relief are listed in the GST/HST legislation.

Budget 2019 proposes to extend the application of the GST/HST relief to certain biologicals, medical devices and health care services to reflect the evolving nature of the health care sector.

Human Ova and *In Vitro* Embryos

Canadians experiencing infertility, as well as single individuals and same-sex couples, are increasingly turning to assisted human reproduction to help build their families. Donated human sperm, ova or *in vitro* embryos may be used as part of an assisted human reproduction procedure. At present, human sperm is zero-rated in the GST/HST legislation, while human ova and *in vitro* embryos are not.

Technological advances have resulted in donated human ova and *in vitro* embryos now being used in assisted human reproduction procedures and the *Assisted Human Reproduction Act* has established a framework for assisted human reproduction in Canada. Under this framework, donated human sperm or ova may be legally imported or purchased in Canada from a reproduction clinic or donor bank, so long as these facilities are not acting on behalf of a donor. In addition, donated human *in vitro* embryos may be legally imported into Canada.

To reflect developments in the health care sector related to assisted human reproduction, Budget 2019 proposes to provide GST/HST relief for human ova and *in vitro* embryos, similar to the relief provided for human sperm. In line with the legal framework for assisted human reproduction, it is proposed that supplies and imports of human ova be relieved of the GST/HST, and that imports of human *in vitro* embryos also be relieved of the GST/HST.

This measure will apply to supplies and imports of human ova made after Budget Day, and to imports of human *in vitro* embryos made after Budget Day.

The Government is also committed to ensuring that the medical expense tax credit reflects medically related developments. To this end, the Government will be reviewing the tax treatment of fertility-related medical expenses under the medical expense tax credit (for the purposes of the *Income Tax Act*) for fairness and consistency, and in light of work being undertaken by Health Canada in relation to the *Assisted Human Reproduction Act* and supporting regulations.

Foot Care Devices Supplied on the Order of a Podiatrist or Chiropodist

Medical and assistive devices that are designed to assist an individual with a disability or impairment are zero-rated under the GST/HST. Certain medical and assistive devices are eligible for this relief only when supplied on the written order of a physician, nurse, physiotherapist or occupational therapist. The list of medical and assistive devices that are zero-rated only when supplied on the written order of these practitioners includes certain foot care devices, such as orthopedic devices and anti-embolic stockings.

Podiatrists and chiropodists are regulated health professionals in most provinces, and are often the only practitioner seen by an individual for treatment of a foot problem or disorder. The health care services of podiatrists and chiropodists are also exempt from the GST/HST. However, they are not among the list of practitioners on whose order certain medical devices can be sold on a zero-rated basis.

In recognition of their role in the health care system, Budget 2019 proposes to add licenced podiatrists and chiropodists to the list of practitioners on whose order supplies of foot care devices are zero-rated.

This measure will apply to supplies of these items made after Budget Day.

Multidisciplinary Health Care Services

Certain health care services may be provided by a multidisciplinary team of licensed health care professionals. For example, an assessment and rehabilitation program can be rendered jointly by a team consisting of a physician, an occupational therapist, and a physiotherapist.

When supplied separately, the services rendered by these health care professionals would generally be exempt from GST/HST. However, there is currently no provision under the GST/HST that explicitly relieves the service of a multidisciplinary health care team that combines elements of the various practices.

Budget 2019 proposes to exempt from the GST/HST the supply of these multidisciplinary health services. The relief will apply to a service rendered by a team of health professionals, such as doctors, physiotherapists and occupational therapists, whose services are GST/HST-exempt when supplied separately. The exemption will apply provided that all or substantially all – generally 90 per cent or more – of the service is rendered by such health professionals acting within the scope of their profession.

This measure will apply to supplies of multidisciplinary health services made after Budget Day.

Cannabis Taxation

New Classes of Cannabis Products

On October 17, 2018, the sale of cannabis for non-medical purposes became legal in Canada under the *Cannabis Act*. There are currently five classes of cannabis products permitted for legal sale: fresh cannabis, dried cannabis, cannabis oil, cannabis plant seeds and cannabis plants.

The Government released for consultation in December 2018 draft regulations governing the production and sale of additional classes of cannabis products, namely edible cannabis, cannabis extracts and cannabis topicals. Following the upcoming legalization and regulation of these three new classes of cannabis products, it is expected that there will eventually be seven classes in total, since cannabis oils are proposed to be subsumed under the new 'cannabis extract' product class after a six-month transition period.

Currently, all cannabis products (including cannabis oils) are generally subject to an excise duty under the *Excise Act, 2001* that is the higher of a flat rate applied on the quantity of cannabis contained in a final product and a percentage of the dutiable amount of the product as sold by the producer (*ad valorem* rate). Budget 2019 proposes an approach to more effectively apply the duty to these new classes of cannabis products, as well as to cannabis oils.

Budget 2019 proposes that edible cannabis, cannabis extracts (including cannabis oils) and cannabis topicals be subject to excise duties imposed on cannabis licensees at a flat rate applied on the quantity of total tetrahydrocannabinol (THC), the primary psychoactive compound in cannabis, contained in a final product. The THC-based duty will be imposed at the time of packaging of a product and become payable when it is delivered to a non-cannabis licensee (e.g., a provincial wholesaler, retailer or individual consumer).

The proposed THC-based rate would alleviate compliance issues that producers have encountered with respect to the tracking of the quantity of cannabis material contained in cannabis oils, and would allow producers and administrators to more easily calculate and verify excise duties for cannabis edibles, extracts and topicals. This will be facilitated by requirements in the labelling regulations under the *Cannabis Act* that mandate the display of total THC content on cannabis products packaging.

The current excise duty regime and associated rates for fresh and dried cannabis, and seeds and seedlings, will be unaffected by this proposed change. Current exemptions under the excise duty framework will also continue to apply in respect of fresh and dried cannabis and cannabis oils that contain no more than 0.3 per cent THC, as well as for pharmaceutical cannabis products that have a Drug Identification Number and can only be acquired through a prescription.

The federal government has entered into Coordinated Cannabis Taxation Agreements (CCTAs) with most provincial and territorial governments, with the aim of keeping duties on cannabis low through a federally administrated coordinated framework. The agreement provides that 75 per cent of the duties go to provincial and territorial governments and the remaining 25 per cent to the federal government. For the first two years of the agreement, the federal portion of cannabis excise duty revenue is capped at $100 million annually, with any federal revenue in excess of $100 million provided to provinces and territories. The proposed measure will not affect the CCTAs.

- The combined federal-provincial-territorial THC-based excise duty rate for cannabis edibles, cannabis extracts (including cannabis oils) and cannabis topicals is proposed to be $0.01 per milligram of total THC.
- The new proposed rate is not expected to materially change the overall projected excise duty revenues from these products under the combined federal-provincial-territorial $1 per gram rate presented in Budget 2018.
- Consistent with the CCTAs signed with provinces and territories, the new THC-based regime will provide for the application of a federal THC-based rate, as well as an additional THC-based rate in respect of provinces and territories, which results in the agreed-upon 75:25 revenue split. These respective rates are set out for each province and territory in Table 6.
- Where provinces and territories have requested a sales tax adjustment under the CCTAs to account for differences in general sales tax rates across the country, the adjustment will continue to be computed as an *ad valorem* additional duty.

Table 6.

Proposed Excise Duty Rates for Cannabis Edibles, Cannabis Extracts (Incl. Oil) and Cannabis Topicals

Province/Territory	Federal Rate ($/mg of total THC)	Additional Rate in Respect of Province/Territory ($/mg of total THC)	Current Ad Valorem Sales Tax Adjustment (per cent)
Alberta	0.0025	0.0075	16.8
British Columbia	0.0025	0.0075	-
Manitoba	0.0025	N/A	-
New Brunswick	0.0025	0.0075	-
Newfoundland and Labrador	0.0025	0.0075	-
Northwest Territories	0.0025	0.0075	-
Nova Scotia	0.0025	0.0075	-
Nunavut	0.0025	0.0075	19.3
Ontario	0.0025	0.0075	3.9
Prince Edward Island	0.0025	0.0075	-
Quebec	0.0025	0.0075	-
Saskatchewan	0.0025	0.0075	6.45
Yukon	0.0025	0.0075	-

Transitional Rules

The proposed changes to the excise duty framework will come into effect on May 1, 2019.

- As a practical matter, the changes will initially apply to cannabis oil products packaged by licensed producers.
- Any cannabis oil product that is packaged for final retail sale before May 1, 2019 will be subject to the currently applicable excise duty rate, regardless of the date of its final delivery to a purchaser.
- As cannabis edibles, other cannabis extracts and cannabis topicals become legally permitted for production and sale under the *Cannabis Act*, licensed producers will be subject to the new THC-based excise duty rules as they relate to these products.

Previously Announced Measures

Budget 2019 confirms the Government's intention to proceed with the following previously announced tax and related measures, as modified to take into account consultations and deliberations since their release:

- Income tax measures announced on November 21, 2018 in the Fall Economic Statement to
  - provide for the Accelerated Investment Incentive,
  - allow the full cost of machinery and equipment used in the manufacturing and processing of goods, and the full cost of specified clean energy equipment, to be written off immediately,
  - extend the 15-per-cent mineral exploration tax credit for an additional five years, and
  - ensure that business income of communal organizations retains its character when it is allocated to members of the communal organization for tax purposes;
- Regulatory proposals released on September 17, 2018 relating to the taxation of cannabis;
- Remaining legislative and regulatory proposals released on July 27, 2018 relating to the Goods and Services Tax/Harmonized Sales Tax;
- The measures referenced in Budget 2018 to support employees who must reimburse a salary overpayment to their employers due to a system, administrative or clerical error;
- The income tax measures announced in Budget 2018 to implement enhanced reporting requirements for certain trusts to provide additional information on an annual basis;
- The income tax measures announced in Budget 2018 to facilitate the conversion of Health and Welfare Trusts to Employee Life and Health Trusts;
- Measures confirmed in Budget 2016 relating to the Goods and Services Tax/Harmonized Sales Tax joint venture election;
- The income tax measures announced in Budget 2016 expanding tax support for electric vehicle charging stations and electrical energy storage equipment; and
- The income tax measures announced in Budget 2016 on information-reporting requirements for certain dispositions of an interest in a life insurance policy.

Budget 2019 also reaffirms the Government's commitment to move forward as required with technical amendments to improve the certainty of the tax system.

Notice of Ways and Means Motion

Notice of Ways and Means Motion to Amend the Income Tax Act and Other Related Legislation

That it is expedient to amend the *Income Tax Act* (the "Act") and other related legislation as follows:

Canada Training Credit

1 (1) The portion of subsection 117.1(1) of the Act before paragraph (a) is replaced by the following:

Annual adjustment

117.1 (1) The amount of $1,000 referred to in the formula in paragraph 8(1)(s), each of the amounts expressed in dollars in subparagraph 6(1)(b)(v.1), subsection 117(2), the description of B in subsection 118(1), subsection 118(2), paragraph (a) of the description of B in subsection 118(10), subsection 118.01(2), the descriptions of C and F in subsection 118.2(1) and subsections 118.3(1), 122.5(3) and 122.51(1) and (2), the amount of $400,000 referred to in the formula in paragraph 110.6(2)(a), the amounts of $1,355 and $2,335 referred to in the description of A, and the amounts of $12,820 and $17,025 referred to in the description of B, in the formula in subsection 122.7(2), the amount of $700 referred to in the description of C, and the amounts of $24,111 and $36,483 referred to in the description of D, in the formula in subsection 122.7(3), the amount of $10,000 referred to in the description of B in the formula in subsection 122.91(2), and each of the amounts expressed in dollars in Part I.2 in relation to tax payable under this Part or Part I.2 for a taxation year shall be adjusted so that the amount to be used under those provisions for the year is the total of

(2) Subsection (1) applies to the 2020 and subsequent taxation years, except that the adjustment provided for in subsection 117.1(1) of the Act, as amended by subsection (1), does not apply for the 2020 taxation year in respect of the amount of $10,000.

2 (1) The portion of subsection 118.5(1) of the Act before paragraph (a) is replaced by the following:

Tuition credit

118.5 (1) Subject to subsection (1.2), for the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted,

(2) Section 118.5 of the Act is amended by adding the following after subsection (1.1):

Canada training credit reduction

(1.2) The amount that may be deducted in a taxation year by an individual under subsection (1) is to be reduced by the amount determined by the formula

A × B

where

A is the appropriate percentage for the taxation year; and

B is the amount, if any, deemed to have been paid by the individual under subsection 122.91(1) in respect of the taxation year.

(3) Subsections (1) and (2) are deemed to have come into force on January 1, 2019.

3 (1) The Act is amended by adding the following after section 122.9:

Subdivision a.5 — Canada Training Credit

Claimed amount

122.91 (1) An individual who is resident in Canada throughout a taxation year, files a return of income for the taxation year and makes a claim under this subsection is deemed to have paid, at the end of the taxation year, on account of tax payable under this Part for the taxation year, an amount claimed by the individual that does not exceed the lesser of

(a) the training amount limit of the individual for the taxation year, and

(b) 50% of the amount that would be deductible under paragraph 118.5(1)(a) or (d) in computing the individual's tax payable under this Part for the taxation year if

(i) this Act were read without reference to subsection 118.5(1.2) and (2), and

(ii) the appropriate percentage for the taxation year were 100%.

Definition of training amount limit

(2) In this section, the ***training amount limit***, of an individual for a taxation year, is

(a) if the taxation year is after 2019 and the individual has attained the age of 26 years, and has not attained the age of 66 years, before the end of the taxation year, the lesser of

(i) the amount determined by the formula

A + B – C

where

A is the individual's training amount limit for the preceding taxation year,

B is

(A) $250, if

(I) the individual was resident in Canada throughout the preceding taxation year,

(II) the total of the following amounts is greater than or equal to $10,000:

1 the amount that would be the individual's *working income* (as defined in subsection 122.7(1)) for the preceding taxation year, if this Act were read without reference to paragraph 81(1)(a) and subsection 81(4),

2 the total of all amounts each of which is an amount payable to the individual under subsection 22(1), 23(1), 152.04(1) or 152.05(1) of the *Employment Insurance Act* in the preceding taxation year, and

3 the amount that would be included in the individual's income because of subparagraph 56(1)(a)(vii) in computing the individual's income for the preceding taxation year, if this Act were read without reference to paragraph 81(1)(a), and

(III) the individual's income for the preceding taxation year under this Part does not exceed the higher dollar amount referred to in paragraph 117(2)(c), as adjusted under this Act for the preceding taxation year, and

(B) nil, in any other case, and

C is the amount deemed to have been paid by the individual under subsection (1) in respect of the preceding taxation year, and

(ii) the amount determined by the formula

$5,000 – D

where

D is the total of all amounts deemed to have been paid by the individual under subsection (1) in respect of a preceding taxation year; and

(b) nil, in any other case.

Effect of bankruptcy

(3) For the purpose of this subdivision, if an individual becomes bankrupt in a particular calendar year,

(a) notwithstanding subsection 128(2), any reference to the taxation year of the individual (other than in this subsection) is deemed to be a reference to the particular calendar year; and

(b) the individual's working income and income under this Part for the taxation year ending on December 31 of the particular calendar year is deemed to include the individual's working income and the income under this Part for the taxation year that begins on January 1 of the particular calendar year.

Special rules in the event of death

(4) For the purposes of this section, if an individual dies in a calendar year,

(a) the individual is deemed to be resident in Canada from the time of death until the end of the year;

(b) the individual is deemed to be the same age at the end of the year as the individual would have been if the individual were alive at the end of the year; and

(c) any return of income filed by a legal representative of the individual is deemed to be a return of income filed by the individual.

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

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

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

(2) Paragraph 152(4.2)(b) of the Act is replaced by the following:

(b) redetermine the amount, if any, deemed by subsection 120(2) or (2.2), 122.5(3), 122.51(2), 122.7(2) or (3), 122.8(4), 122.9(2), 122.91(1), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year or deemed by subsection 122.61(1) to be an overpayment on account of the taxpayer's liability under this Part for the year.

(2) Subsections (1) and (2) are deemed to have come into force on January 1, 2019.

5 (1) Subsection 163(2) of the Act is amended by adding the following after paragraph (c.5):

(c.6) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by subsection 122.91(1) to have been paid on account of the person's tax payable under this Part for the year if those amounts were calculated by reference to the information provided in the return

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by subsection 122.91(1) to be a payment on account of the person's tax payable under this Part for the taxation year,

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

6 (1) The definition *excluded withdrawal* in subsection 146.01(1) of the Act is amended by striking out "or" at the end of paragraph (b), by adding "or" at the end of paragraph (c) and by adding the following after paragraph (c):

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

(i) the particular amount would be a regular eligible amount if subsection (2.1) were read without reference to its subparagraph (a)(iii),

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

(iii) the payment is made before the end of the second calendar year after the calendar year that includes the particular time referred to in subsection (2.1);

(2) Paragraph (h) of the definition *regular eligible amount* in subsection 146.01(1) of the Act is replaced by the following:

(h) the total of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed $35,000, and

(3) Paragraph (g) of the definition *supplemental eligible amount* in subsection 146.01(1) of the Act is replaced by the following:

(g) the total of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed $35,000, and

(4) Section 146.01 of the Act is amended by adding the following after subsection (2):

Marriage or common-law partnership

(2.1) Notwithstanding paragraph (2)(a.1), for the purposes of the definition *regular eligible amount*,

(a) an individual, and a spouse or common-law partner of the individual, are deemed not to have an owner-occupied home in a period ending before a particular time referred to in that definition if

(i) at the particular time, the individual

(A) is living separate and apart from the individual's spouse or common-law partner because of a breakdown of their marriage or common-law partnership,

(B) has been living separate and apart from the individual's spouse or common-law partner for a period of at least 90 days, and

(C) began living separate and apart from the individual's spouse or common-law partner in the calendar year that includes the particular time or any time in the four preceding calendar years,

(ii) in the absence of this subsection, the individual would not have a regular eligible amount because of the application of paragraph (f) of that definition in respect of a spouse or common-law partner other than the spouse or common-law partner referred to in clauses (i)(A) to (C), and

(iii) where the individual has an owner-occupied home at the particular time,

(A) the home is not the qualifying home referred to in that definition and the individual disposes of the home no later than the end of the second calendar year after the calendar year that includes the particular time, or

(B) the individual acquires the interest of the spouse or common-law partner in the home; and

(b) if an individual to whom paragraph (a) applies has an owner-occupied home at the particular time referred to in that paragraph and the individual acquires the interest of a spouse or common-law partner in the home, the individual is deemed for the purposes of paragraphs (c) and (d) of that definition to have acquired a qualifying home on the date that the individual acquired the interest.

(5) Subsections (1) and (4) apply in respect of amounts received after 2019.

(6) Subsections (2) and (3) apply to the 2019 and subsequent taxation years in respect of amounts received after Budget Day.

Change in Use Rules for Multi-Unit Residential Properties

7 (1) Subsection 45(2) of the Act is replaced by the following:

Election where change of use

(2) For the purposes of this subdivision and section 13, if a taxpayer elects in respect of any property of the taxpayer in the taxpayer's return of income for a taxation year under this Part,

(a) if subparagraph (1)(a)(i) or paragraph 13(7)(b) would otherwise apply to the property for the taxation year, the taxpayer is deemed not to have begun to use the property for the purpose of gaining or producing income;

(b) if subparagraph (1)(c)(ii) or 13(7)(d)(i) would otherwise apply to the property for the taxation year, the taxpayer is deemed not to have increased the use regularly made of the property for the purpose of gaining or producing income relative to the use regularly made of the property for other purposes; and

(c) if the taxpayer rescinds the election in respect of the property in the taxpayer's return of income under this Part for a subsequent taxation year,

(i) if paragraph (a) applied to the taxpayer in the taxation year, the taxpayer is deemed to have begun to use the property for the purpose of gaining or producing income on the first day of the subsequent taxation year, and

(ii) if paragraph (b) applied to the taxpayer in the taxation year, the taxpayer is deemed to have increased the use regularly made of the property for the purpose of gaining or producing income on the first day of the subsequent taxation year by the amount that would have been the increase in the taxation year if the election had not been made.

(2) The portion of subsection 45(3) of the Act before paragraph (a) is replaced by the following:

Election concerning principal residence

(3) If at any time a property that was acquired by a taxpayer for the purpose of gaining or producing income, or that was acquired in part for that purpose, ceases in whole or in part to be used for that purpose and becomes, or becomes part of, the principal residence of the taxpayer, paragraphs (1)(a) and (c) shall not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately thereafter if the taxpayer so elects by notifying the Minister in writing on or before the earlier of

(3) Subsections (1) and (2) apply in respect of changes in the use of property that occur on or after Budget Day.

Permitting Additional Types of Annuities under Registered Plans

8 The Act is modified to give effect to the proposals relating to permitting additional types of annuities under registered plans described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Registered Disability Savings Plan — Cessation of Eligibility for the Disability Tax Credit

9 The Act is modified to give effect to the proposals relating to the Registered Disability Savings Plan — cessation of eligibility for the disability tax credit measure described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.

Tax Measures for Kinship Care Providers

10 (1) Subsection 81(1) of the Act is amended by adding the following after paragraph (h):

Social assistance for informal care programs

(h.1) if the taxpayer is an individual (other than a trust), a social assistance payment ordinarily made on the basis of a means, needs or income test provided for under a program of the Government of Canada or the government of a province, to the extent that it is received directly or indirectly by the taxpayer for the benefit of a particular individual, if

(i) payments to recipients under the program are made for the care and upbringing, on a temporary basis, of another individual in need of protection,

(ii) the particular individual is a child of the taxpayer because of paragraph 252(1)(b) (or would be a child of the taxpayer because of that paragraph if the taxpayer did not receive payments under the program), and

(iii) no special allowance under the *Children's Special Allowances Act* is payable in respect of the particular individual for the period in respect of which the social assistance payment is made;

(2) Subsection (1) is deemed to have come into force on January 1, 2009.

11 (1) Section 122.7 of the Act is amended by adding the following after subsection (1.1):

Receipt of social assistance

(1.2) For the purposes of applying the definitions *eligible dependant* and *eligible individual* in subsection (1) for a taxation year, an individual shall not fail to qualify as a parent (within the meaning assigned by section 252) of another individual solely because of the receipt of a social assistance amount that is payable under a program of the Government of Canada or the government of a province for the benefit of the other individual, unless the amount is a special allowance under the *Children's Special Allowances Act* in respect of the other individual in the taxation year.

(2) Subsection (1) is deemed to have come into force on January 1, 2009.

Donations of Cultural Property

12 (1) The portion of subparagraph 39(1)(a)(i.1) of the Act before clause (A) is replaced by the following:

(i.1) an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraph 29(3)(b) of the *Cultural Property Export and Import Act* if

(2) Subsection (1) is deemed to have come into force on Budget Day.

13 (1) Paragraph 110.1(1)(c) of the Act is replaced by the following:

Gifts to institutions

(c) the total of all amounts each of which is the eligible amount of a gift (other than a gift described in paragraph (d)) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraph 29(3)(b) of the *Cultural Property Export and Import Act*, which gift was made by the corporation in the year or in any of the five preceding taxation years to an institution or a public authority in Canada that was, at the time the gift was made, designated under subsection 32(2) of that Act either generally or for a specified purpose related to that object; and

(2) Subsection (1) is deemed to have come into force on Budget Day.

14 (1) Paragraph (a) of the definition *total cultural gifts* in subsection 118.1(1) of the Act is replaced by the following:

(a) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraph 29(3)(b) of the *Cultural Property Export and Import Act*,

(2) Subsection (1) is deemed to have come into force on Budget Day.

15 (1) Subsection 32(1) of the *Cultural Property Export and Import Act* is replaced by the following:

Request for determination of Review Board

32 (1) For the purposes of subparagraph 39(1)(a)(i.1), paragraph 110.1(1)(c), the definition *total cultural gifts* in subsection 118.1(1) and subsection 118.1(10) of the *Income Tax Act*, where a person disposes of or proposes to dispose of an object to an institution or a public authority designated under subsection (2), the person, institution or public authority may request, by notice in writing given to the Review Board, a determination by the Review Board as to whether the object meets the criteria set out in paragraph 29(3)(b) and a determination by the Review Board of the fair market value of the object.

(2) Subsection (1) is deemed to have come into force on Budget Day.

16 (1) Subsection 33(1) of the *Cultural Property Export and Import Act* is replaced by the following:

Income tax certificate

33 (1) Where the Review Board determines or redetermines the fair market value of an object in respect of which a request was made under section 32 and determines that the object meets the criteria set out in paragraph 29(3)(b), it shall, where the object has been irrevocably disposed of to a designated institution or public authority, issue to the person who made the disposition a certificate attesting to the fair market value and to the meeting of those criteria, in such form as the Minister of National Revenue may specify.

(2) Subsection (1) is deemed to have come into force on Budget Day.

Medical Expense Tax Credit

17 (1) Paragraph 118.2(2)(u) of the Act is replaced by the following:

Cannabis for medical purposes

(u) on behalf of the patient who is the holder of a *medical document* (as defined in subsection 264(1) of the *Cannabis Regulations*) to support their use of cannabis for medical purposes, for the cost of cannabis, cannabis oil, cannabis plant seeds or cannabis products purchased for medical purposes from a holder of a *licence for sale* (as defined in subsection 264(1) of the *Cannabis Regulations*).

(2) Subsection (1) is deemed to have come into force on October 17, 2018.

Contributions to a Specified Multi-Employer Plan for Older Members

18 (1) Subsection 8510(7) of the *Income Tax Regulations* (the "Regulations") is amended by striking out "and" at the end of paragraph (a), by adding "and" at the end of paragraph (b) and by adding the following after that paragraph:

(c) no contributions are made

(i) to the plan with respect to a member at any time after the end of the calendar year in which the member attains 71 years of age, or

(ii) to a defined benefit provision of the plan with respect to a member during a period (other than a *qualifying period*, as defined in subsection 8503(16)) in which the member is in receipt of retirement benefits from a defined benefit provision of the plan.

(2) Subsection (1) applies in respect of contributions made pursuant to any collective bargaining agreement entered into after 2019, except that it does not apply in respect of contributions made on or before the date the agreement is entered into.

Pensionable Service Under an Individual Pension Plan

19 (1) Paragraph 147.3(3)(c) of the Act is replaced by the following:

(c) is transferred directly to another registered pension plan to be held in connection with a defined benefit provision of the other plan, unless the transfer is to an *individual pension plan* (as defined by regulation) and is in respect of benefits that are attributable to employment with a former employer that is not a participating employer (or its predecessor employer); and

(2) Subsection (1) is deemed to have come into force on Budget Day.

20 (1) The portion of subparagraph 8503(3)(a)(v) of the Regulations before clause (A) is replaced by the following:

(v) unless the provision is a provision of an individual pension plan, a period in respect of which

(2) The portion of subparagraph 8503(3)(a)(v.1) of the Regulations before clause (A) is replaced by the following:

(v.1) unless the provision is a provision of an individual pension plan, a portion — determined by reference to the proportion of property that has been transferred, as described in clause (B) — of a period in respect of which

(3) Subparagraph 8503(3)(a)(vi) of the Regulations is replaced by the following:

(vi) unless the provision is a provision of an individual pension plan, a period throughout which the member was employed in Canada by a former employer where the period was an eligibility period for the participation of the member in another registered pension plan, and

(4) Subsections (1) to (3) are deemed to have come into force on Budget Day. However, subsections (1) to (3) do not apply to a period that was *pensionable service* (as defined in subsection 8500(1) of the Regulations) in respect of a member under a defined benefit provision of an individual pension plan before Budget Day.

Mutual Funds: Allocation to Redeemers Methodology

21 (1) Section 132 of the Act is amended by adding the following after subsection (5.2):

Allocation to redeemers

(5.3) If a trust that is a mutual fund trust throughout a taxation year paid or made payable, at any time in the taxation year, to a beneficiary an amount on a redemption by that beneficiary of a unit of the trust (in this subsection referred to as the "allocated amount"), and the beneficiary's proceeds from the disposition of that unit do not include the allocated amount, in computing its income for the taxation year no deduction may be made by the trust in respect of

(a) the portion of the allocated amount that would be, without reference to subsection 104(6), an amount paid out of the income (other than taxable capital gains) of the trust; and

(b) the portion of the allocated amount determined by the formula

$$A - 1/2 (B + C - D)$$

where

A is the portion of the allocated amount that would be, without reference to subsection 104(6), an amount paid out of the taxable capital gains of the trust,

B is the beneficiary's proceeds from the disposition of the unit on the redemption,

C is the allocated amount, and

D is the beneficiary's cost amount of that unit.

(2) Subsection (1) applies to taxation years that begin on or after Budget Day.

Carrying on Business in a Tax-Free Savings Account

22 (1) Section 146.2 of the Act is amended by adding the following after subsection (6):

Carrying on a business

(6.1) If tax is payable under this Part for a taxation year because of subsection (6) by a trust that is governed by a TFSA that carries on one or more businesses at any time in the taxation year,

(a) the holder of the TFSA is jointly and severally, or solidarily, liable with the trust to pay each amount payable under this Act by the trust that is attributable to that business or those businesses; and

(b) the issuer's liability at any time for amounts payable under this Act in respect of that business or those businesses shall not exceed the total of the amount of property of the trust that the issuer is in possession or control of at that time in its capacity as legal representative of the trust and the total amount of all distributions of property from the trust on or after the date that the notice of assessment was sent in respect of the taxation year and before that time.

(2) Subsection (1) applies in respect of business activities in a TFSA for the 2019 and subsequent taxation years.

Electronic Delivery of Requirements for Information

23 (1) The portion of subsection 231.2(1) of the Act before paragraph (a) is replaced by the following:

Requirement to provide documents or information

231.2 (1) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act (including the collection of any amount payable under this Act by any person), of a listed international agreement or, for greater certainty, of a tax treaty with another country, by notice sent or served in accordance with subsection (1.1), require that any person provide, within such reasonable time as is stipulated in the notice,

(2) Section 231.2 of the Act is amended by adding the following after subsection (1):

Notice

(1.1) A notice referred to in subsection (1) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (1) electronically.

(3) Subsections (1) and (2) come into force on January 1, 2020.

24 (1) Subsection 231.6(2) of the Act is replaced by the following:

Requirement to provide foreign-based information

(2) Notwithstanding any other provision of this Act, the Minister may, by notice sent or served in accordance with subsection (3.1), require that a person resident in Canada or a non-resident person carrying on business in Canada provide any foreign-based information or document.

(2) Section 231.6 of the Act is amended by adding the following after subsection (3):

Notice

(3.1) A notice referred to in subsection (2) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (2) electronically.

(3) Subsection 231.6(4) of the English version of the Act is replaced by the following:

Review of foreign information requirement

(4) The person who is sent or served with a notice of a requirement under subsection (2) may, within 90 days after the notice is sent or served, apply to a judge for a review of the requirement.

(4) Subsection 231.6(6) of the English version of the Act is replaced by the following:

Idem

(6) For the purposes of paragraph (5)(c), the requirement to provide the information or document shall not be considered to be unreasonable because the information or document is under the control of or available to a non-resident person that is not controlled by the person who is sent or served with the notice of the requirement under subsection (2) if that person is related to the non-resident person.

(5) Subsection 231.6(8) of the Act is replaced by the following:

Consequence of failure

(8) If a person fails to comply substantially with a notice sent or served under subsection (2) and if the notice is not set aside by a judge pursuant to subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on motion of the Minister, prohibit the introduction by that person of any foreign-based information or document covered by that notice.

(6) Subsections (1) to (5) come into force on January 1, 2020.

25 (1) Paragraph 231.8(a) of the Act is replaced by the following:

(a) where the taxpayer is sent or served with a notice of a requirement under subsection 231.2(1), the period of time between the day on which an application for judicial review in respect of the requirement is made and the day on which the application is finally disposed of; and

(2) Subsection (1) comes into force on January 1, 2020.

26 (1) Section 244 of the Act is amended by adding the following after subsection (6):

Proof of electronic delivery

(6.1) If, by this Act or a regulation, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Canada Revenue Agency sworn before a commissioner or other person authorized to take affidavits, shall, in the absence of proof to the contrary, be received as evidence of the sending and of the notice if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) the notice was sent electronically to the person on a named day; and

(c) the officer identifies as exhibits attached to the affidavit copies of

(i) an electronic message confirming the notice has been sent to the person, and

(ii) the notice.

(2) Subsection (1) comes into force on January 1, 2020.

Related Amendments

27 (1) Subsection 99(1) of the *Excise Tax Act* is replaced by the following:

Provision of documents may be required

99 (1) Subject to section 102.1, the Minister may, for any purpose related to the administration or enforcement of this Act, or of a listed international agreement, by a notice served or sent in accordance with subsection (1.1), require that any person provide any book, record, writing or other document or any information or further information within any reasonable time that may be stipulated in the notice.

Notice

(1.1) A notice referred to in subsection (1) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or *credit union* (as defined in subsection 123(1)), that has provided written consent to receive notices under subsection (1) electronically.

(2) Subsection (1) comes into force on January 1, 2020.

28 (1) Subsection 102.1(1) of the *Excise Tax Act* is replaced by the following:

Unnamed persons

102.1 (1) The Minister shall not serve or send a notice under subsection 99(1) with respect to an unnamed person or a group of unnamed persons unless the Minister has been authorized to do so under subsection (2).

(2) The portion of subsection 102.1(2) of the *Excise Tax Act* before paragraph (a) is replaced by the following:

Authorization order

(2) A judge of the Federal Court may, on application by the Minister and subject to any conditions that the judge considers appropriate, authorize the Minister to serve or send a notice under subsection 99(1) with respect to an unnamed person or a group of unnamed persons if the judge is satisfied by information on oath that

(3) Paragraph 102.1(2)(b) of the *Excise Tax Act* is replaced by the following:

(b) the notice would be served or sent in order to verify compliance by the person or group with any duty or obligation of that person or of persons in that group under this Act.

(4) Subsections (1) to (3) come into force on January 1, 2020.

29 (1) Section 105 of the *Excise Tax Act* is amended by adding the following after subsection (2):

Proof of electronic delivery

(2.1) If, under this Act or a regulation made under this Act, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) the notice was sent electronically to the person on a named day; and

(c) the officer identifies as exhibits attached to the affidavit copies of

(i) an electronic message confirming the notice has been sent to the person, and

(ii) the notice.

(2) Subsection (1) comes into force on January 1, 2020.

30 (1) The portion of subsection 289(1) of the *Excise Tax Act* before paragraph (a) is replaced by the following:

Requirement to provide documents or information

289 (1) Despite any other provision of this Part, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of a listed international agreement or this Part, including the collection of any amount payable or remittable under this Part by any person, by a notice served or sent in accordance with subsection (1.1), require that any person provide the Minister, within any reasonable time that is stipulated in the notice, with

(2) Section 289 of the *Excise Tax Act* is amended by adding the following after subsection (1):

Notice

(1.1) A notice referred to in subsection (1) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (1) electronically.

(3) Subsections (1) and (2) come into force on January 1, 2020.

31 (1) Paragraph 289.2(a) of the *Excise Tax Act* is replaced by the following:

(a) if the person is served or sent a notice of a requirement under subsection 289(1), the period of time between the day on which an application for judicial review in respect of the requirement is made and the day on which the application is finally disposed of; and

(2) Subsection (1) comes into force on January 1, 2020.

32 (1) Subsection 292(2) of the *Excise Tax Act* is replaced by the following:

Requirement to provide foreign-based information

(2) Despite any other provision of this Part, the Minister may, by a notice served or sent in accordance with subsection (3.1), require a person resident in Canada or a non-resident person that carries on business in Canada to provide any foreign-based information or document.

(2) Section 292 of the *Excise Tax Act* is amended by adding the following after subsection (3):

Notice

(3.1) A notice referred to in subsection (2) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or credit union, that has provided written consent to receive notices under subsection (2) electronically.

(3) Subsection 292(4) of the English version of the *Excise Tax Act* is replaced by the following:

Review of foreign information requirement

(4) If a person is served or sent a notice of a requirement under subsection (2), the person may, within 90 days after the day on which the notice is served or sent, apply to a judge for a review of the requirement.

(4) Subsection 292(6) of the English version of the *Excise Tax Act* is replaced by the following:

Requirement not unreasonable

(6) For the purposes of subsection (5), a requirement to provide information or a document shall not be considered to be unreasonable because the information or document is under the control of or available to a non-resident person that is not controlled by the person on which the notice of the requirement under subsection (2) is served, or to which that notice is sent, if that person is related to the non-resident person.

(5) Subsection 292(8) of the English version of the *Excise Tax Act* is replaced by the following:

Consequence of failure

(8) If a person fails to comply substantially with a notice served or sent under subsection (2) and if the notice is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Part shall, on motion of the Minister, prohibit the introduction by that person of any foreign-based information or document covered by that notice.

(6) Subsections (1) to (5) come into force on January 1, 2020.

33 (1) Section 335 of the *Excise Tax Act* is amended by adding the following after subsection (2):

Proof of electronic delivery

(2.1) If, under this Part or a regulation made under this Part, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) the notice was sent electronically to the person on a named day; and

(c) the officer identifies as exhibits attached to the affidavit copies of

(i) an electronic message confirming the notice has been sent to the person, and

(ii) the notice.

(2) Subsection (1) comes into force on January 1, 2020.

34 (1) Subsection 38(1) of the *Air Travellers Security Charge Act* is replaced by the following:

Requirement to provide information

38 (1) Despite any other provision of this Act, the Minister may, by a notice served or sent in accordance with subsection (2.1), require a person that is resident in Canada or a person that is not resident in Canada but that carries on business in Canada to provide any information or record.

(2) Section 38 of the *Air Travellers Security Charge Act* is amended by adding the following after subsection (2):

Notice

(2.1) A notice referred to in subsection (1) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a bank, or *credit union* (as defined in subsection 123(1) of the *Excise Tax Act*), that has provided written consent to receive notices under subsection (1) electronically.

(3) Subsection 38(3) of the English version of the *Air Travellers Security Charge Act* is replaced by the following:

Review of information requirement

(3) If a person is served or sent a notice of a requirement under subsection (1), the person may, within 90 days after the day on which the notice is served or sent, apply to a judge for a review of the requirement.

(4) Subsection 38(5) of the *Air Travellers Security Charge Act* is replaced by the following:

Requirement not unreasonable

(5) For the purposes of subsection (4), a requirement to provide information or a record shall not be considered to be unreasonable solely because the information or record is under the control of or available to a person that is not resident in Canada, if that person is related, for the purposes of the *Income Tax Act*, to the person on which the notice of the requirement is served or to which that notice is sent.

(5) Subsection 38(7) of the English version of the *Air Travellers Security Charge Act* is replaced by the following:

Consequence of failure

(7) If a person fails to comply substantially with a notice served or sent under subsection (1) and the notice is not set aside under subsection (4), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on the motion of the Minister, prohibit the introduction by that person of any information or record described in that notice.

(6) Subsections (1) to (5) come into force on January 1, 2020.

35 (1) Section 83 of the *Air Travellers Security Charge Act* is amended by adding the following after subsection (2):

Proof of electronic delivery

(2.1) If, under this Act, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) the notice was sent electronically to the person on a named day; and

(c) the officer identifies as exhibits attached to the affidavit copies of

(i) an electronic message confirming the notice has been sent to the person, and

(ii) the notice.

(2) Subsection (1) comes into force on January 1, 2020.

36 (1) The portion of subsection 208(1) of the *Excise Act, 2001* before paragraph (a) is replaced by the following:

Requirement to provide records or information

208 (1) Despite any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of a listed international agreement or of this Act, by a notice served or sent in accordance with subsection (1.1), require any person to provide the Minister, within any reasonable time that is stipulated in the notice, with

(2) Section 208 of the *Excise Act, 2001* is amended by adding the following after subsection (1):

Notice

(1.1) A notice referred to in subsection (1) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a *bank*, or *credit union*, as those terms are defined in subsection 123(1) of the *Excise Tax Act*, that has provided written consent to receive notices under subsection (1) electronically.

(3) Subsections (1) and (2) come into force on January 1, 2020.

37 (1) Paragraph 209.1(a) of the *Excise Act, 2001* is replaced by the following:

(a) if the person is served or sent a notice of a requirement under subsection 208(1), the period of time between the day on which an application for judicial review in respect of the requirement is made and the day on which the application is finally disposed of; and

(2) Subsection (1) comes into force on January 1, 2020.

38 (1) Subsection 210(2) of the *Excise Act, 2001* is replaced by the following:

Requirement to provide foreign-based information

(2) Despite any other provision of this Act, the Minister may, by a notice served or sent in accordance with subsection (3.1), require a person resident in Canada or a non-resident person that carries on business in Canada to provide any foreign-based information or record.

(2) Section 210 of the *Excise Act, 2001* is amended by adding the following after subsection (3):

Notice

(3.1) A notice referred to in subsection (2) may be

(a) served personally;

(b) sent by registered or certified mail; or

(c) sent electronically, in the case of a *bank*, or *credit union*, as those terms are defined in subsection 123(1) of the *Excise Tax Act*, that has provided written consent to receive notices under subsection (2) electronically.

(3) Subsection 210(4) of the English version of the *Excise Act, 2001* is replaced by the following:

Review of foreign information requirement

(4) If a person is served or sent a notice of a requirement under subsection (2), the person may, within 90 days after the day on which the notice is served or sent, apply to a judge for a review of the requirement.

(4) Subsection 210(6) of the English version of the *Excise Act, 2001* is replaced by the following:

Requirement not unreasonable

(6) For the purposes of subsection (5), a requirement to provide information or a record shall not be considered to be unreasonable because the information or record is under the control of or available to a non-resident person that is not controlled by the person on which the notice of the requirement is served, or to which that notice is sent, if that person is related to the non-resident person.

(5) Subsection 210(8) of the English version of the *Excise Act, 2001* is replaced by the following:

Consequence of failure

(8) If a person fails to comply substantially with a notice served or sent under subsection (2) and the notice is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on the motion of the Minister, prohibit the introduction by that person of any foreign-based information or record described in that notice.

(6) Subsections (1) to (5) come into force on January 1, 2020.

39 (1) Section 301 of the *Excise Act, 2001* is amended by adding the following after subsection (2):

Proof of electronic delivery

(2.1) If, under this Act, provision is made for sending a notice to a person electronically, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the notice if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) the notice was sent electronically to the person on a named day; and

(c) the officer identifies as exhibits attached to the affidavit copies of

(i) an electronic message confirming the notice has been sent to the person, and

(ii) the notice.

(2) Subsection (1) comes into force on January 1, 2020.

Support for Canadian Journalism

Qualified Donee Status

40 (1) Subsection 149(1) of the Act is amended by adding the following after paragraph (g):

Registered journalism organizations

(h) a registered journalism organization;

(2) Subsection (1) comes into force on January 1, 2020.

41 (1) The definition *qualified donee* in subsection 149.1(1) of the Act is amended by adding the following after paragraph (b):

(b.1) a registered journalism organization,

(2) Subsection 149.1(1) of the Act is amended by adding the following in alphabetical order:

qualifying journalism organization means a corporation or trust that meets the following conditions:

(a) it is a qualified Canadian journalism organization,

(b) it is constituted and operated for purposes exclusively related to journalism,

(c) any business activities it carries on are related to its purposes,

(d) it has a board of directors or trustees, each of whom deals at arm's length with each other,

(e) it is not controlled, directly or indirectly in any manner whatever, by a person or by a group of persons that do not deal with each other at arm's length,

(f) it may not, in a taxation year, receive gifts from any one source that represent more than 20% of its total revenues (including donations) for the taxation year, other than a gift

(i) made by way of bequest,

(ii) made within 12 months after the time the organization is first registered, or

(iii) approved, on a case-by-case basis, by the Minister, and

(g) no part of its income is payable to, or otherwise available for the personal benefit of, any proprietor, member, shareholder, director, trustee, settlor or like individual; (*organisation journalistique admissible*)

(3) Subsection 149.1(4.3) of the Act is replaced by the following:

Revocation of a qualified donee

(4.3) The Minister may, in the manner described in section 168, revoke the registration of a qualified donee referred to in paragraph (a) or (b.1) of the definition *qualified donee* in subsection (1) for any reason described in subsection 168(1).

(4) Section 149.1 of the Act is amended by adding the following after subsection (14):

Information returns

(14.1) Every registered journalism organization shall, within six months from the end of each taxation year of the organization without notice or demand, file with the Minister both an information return and a public information return for the year in prescribed form and containing prescribed information including, for each donor whose total gifts to the organization in the year exceed $5,000, the name of the donor and the total amount donated.

(5) Paragraphs 149.1(15)(a) and (b) of the Act are replaced by the following:

(a) the information contained in a public information return referred to in subsection 149.1(14) or (14.1) shall be communicated or otherwise made available to the public by the Minister in such manner as the Minister deems appropriate;

(b) the Minister may make available to the public in any manner that the Minister considers appropriate, in respect of each registered, or previously registered, charity, Canadian amateur athletic association, registered journalism organization and qualified donee referred to in paragraph (a) of the definition *qualified donee* in subsection (1),

(i) its name, address and date of registration,

(ii) in the case of a registered, or previously registered, charity, Canadian amateur athletic association or registered journalism organization, its registration number, and

(iii) the effective date of any revocation, annulment or termination of registration; and

(6) Subsection 149.1(22) of the Act is replaced by the following:

Refusal to register

(22) The Minister may, by registered mail, give notice to a person that the application of the person for registration as a registered charity, registered Canadian amateur athletic association, registered journalism organization or qualified donee referred to in subparagraph (a)(i) or (iii) of the definition *qualified donee* in subsection (1) is refused.

(7) Subsections (1) to (6) come into force on January 1, 2020.

42 (1) Paragraph 168(1)(c) of the Act is replaced by the following:

(c) in the case of a registered charity, registered Canadian amateur athletic association or registered journalism organization, fails to file an information return as and when required under this Act or a regulation;

(2) Paragraph 168(1)(f) of the Act is replaced by the following:

(f) in the case of a registered Canadian amateur athletic association or registered journalism organization, accepts a gift the granting of which was expressly or implicitly conditional on the association or organization making a gift to another person, club, society, association or organization.

(3) Subsection 168(2) of the Act is replaced by the following:

Revocation of registration

(2) If the Minister gives notice under subsection 168(1) to a registered charity, to a registered Canadian amateur athletic association or to a registered journalism organization,

(a) if it has applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the *Canada Gazette*, and on that publication of a copy of the notice, the registration is revoked; and

(b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*, and on that publication of a copy of the notice, the registration is revoked.

(4) Paragraph 168(4)(c) of the Act is replaced by the following:

(c) in the case of a person described in any of subparagraphs (a)(i) to (v) and paragraph (b.1) of the definition *qualified donee* in subsection 149.1(1), that is or was registered by the Minister as a qualified donee or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.3) and (22).

(5) Subsections (1) to (4) come into force on January 1, 2020.

43 (1) Paragraph 172(3)(a.2) of the Act is replaced by the following:

(a.2) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.3), (22) and 168(1) by the Minister, to a person that is a person described in any of subparagraphs (a)(i) to (v) and paragraph (b.1) of the definition *qualified donee* in subsection 149.1(1) that is or was registered by the Minister as a qualified donee or is an applicant for such registration, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(2) Subsection (1) comes into force on January 1, 2020.

44 (1) Subsection 188.1(6) of the Act is replaced by the following:

Failure to file information returns

(6) Every registered charity, registered Canadian amateur athletic association and registered journalism organization that fails to file a return for a taxation year as and when required by subsection 149.1(14) or (14.1) is liable to a penalty equal to $500.

(2) Subsection 188.1(7) of the Act is replaced by the following:

Incorrect information

(7) Except where subsection (8) or (9) applies, every registered charity, registered Canadian amateur athletic association and registered journalism organization that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable for the taxation year to a penalty equal to 5% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

(3) Subsection 188.1(8) of the Act is replaced by the following:

Increased penalty for subsequent assessment

(8) Except where subsection (9) applies, if the Minister has, less than five years before a particular time, assessed a penalty under subsection (7) or this subsection for a taxation year of a registered charity, registered Canadian amateur athletic association or registered journalism organization and, after that assessment and in a subsequent taxation year, it issues, at the particular time, a receipt for a gift otherwise than in accordance with this Act and the regulations, it is liable for the subsequent taxation year to a penalty equal to 10% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

(4) Subsection 188.1(9) of the Act is replaced by the following:

False information

(9) If at any time a person makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct (within the meaning assigned by subsection 163.2(1)), is a false statement (within the meaning assigned by subsection 163.2(1)) on a receipt issued by, on behalf of or in the name of another person for the purposes of subsection 110.1(2) or 118.1(2), the person (or, where the person is an officer, employee, official or agent of a registered charity, registered Canadian amateur athletic association or registered journalism organization, the charity, association or organization) is liable for their taxation year that includes that time to a penalty equal to 125% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

(5) Subsections (1) to (4) come into force on January 1, 2020.

45 (1) The portion of subsection 188.2(1) of the Act before paragraph (a) is replaced by the following:

Notice of suspension with assessment

188.2 (1) The Minister shall, with an assessment referred to in this subsection, give notice by registered mail to a registered charity, registered Canadian amateur athletic association or registered journalism organization that its authority to issue an official receipt referred to in Part XXXV of the *Income Tax Regulations* is suspended for one year from the day that is seven days after the day on which the notice is mailed, if the Minister has assessed the charity, association or organization for a taxation year for

(2) Subsection 188.2(2.1) of the Act is replaced by the following:

Suspension – failure to report

(2.1) If a registered charity, a registered Canadian amateur athletic association or a registered journalism organization fails to report information that is required to be included in a return filed under subsection 149.1(14) or (14.1), the Minister may give notice by registered mail to the charity, association or organization that its authority to issue an official receipt referred to in Part XXXV of the *Income Tax Regulations* is suspended from the day that is seven days after the day on which the notice is mailed until such time as the Minister notifies the charity, association or organization that the Minister has received the required information in prescribed form.

(3) Subsections (1) and (2) come into force on January 1, 2020.

46 (1) The portion of subsection 230(2) of the Act before paragraph (a) is replaced by the following:

Records and books

(2) Every qualified donee referred to in paragraphs (a) to (c) of the definition *qualified donee* in subsection 149.1(1) shall keep records and books of account — in the case of a qualified donee referred to in any of subparagraphs (a)(i) and (iii) and paragraphs (b), (b.1) and (c) of that definition, at an address in Canada recorded with the Minister or designated by the Minister — containing

(2) Subsection (1) comes into force on January 1, 2020.

47 (1) The portion of subsection 241(3.2) of the Act before paragraph (a) is replaced by the following:

Certain qualified donees

(3.2) An official may provide to any person the following taxpayer information relating to another person (in this subsection referred to as the "registrant") that was at any time a registered charity, registered Canadian amateur athletic association or registered journalism organization:

(2) Paragraph 241(3.2)(f) of the Act is replaced by the following:

(f) financial statements required to be filed with an information return referred to in subsection 149.1(14) or (14.1);

(3) Subsections (1) and (2) come into force on January 1, 2020.

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

registered journalism organization means a *qualifying journalism organization* (as defined in subsection 149.1(1)) that has applied to the Minister in prescribed form for registration, that has been registered and whose registration has not been revoked; (*organisation journalistique enregistrée*)

(2) Subsection (1) comes into force on January 1, 2020.

49 (1) The portion of subsection 253.1(2) of the Act before paragraph (a) is replaced by the following:

Investments in limited partnerships

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

(2) Subsection (1) comes into force on January 1, 2020.

50 (1) The definition *registered organization* in section 3500 of the Regulations is replaced by the following:

registered organization means a registered charity, a registered Canadian amateur athletic association, registered journalism organization or a registered national arts service organization. (*organisation enregistrée*)

(2) Subsection (1) comes into force on January 1, 2020.

51 (1) Paragraphs 5800(1)(d) and (e) of the Regulations are replaced by the following:

(d) in respect of

(i) any record of the minutes of meetings of the executive of a registered charity, registered Canadian amateur athletic association or registered journalism organization,

(ii) any record of the minutes of meetings of the members of a registered charity, registered Canadian amateur athletic association or registered journalism organization, and

(iii) all documents and by-laws governing a registered charity, registered Canadian amateur athletic association or registered journalism organization,

the period ending on the day that is two years after the date on which the registration of the registered charity, the registered Canadian amateur athletic association or the registered journalism organization under the Act is revoked;

(e) in respect of all records and books of account that are not described in paragraph (d) and that relate to a registered charity, registered Canadian amateur athletic association or registered journalism organization whose registration under the Act is revoked, and in respect of the vouchers and accounts necessary to verify the information in such records and books of account, the period ending on the day that is two years after the date on which the registration of the registered charity, the registered Canadian amateur athletic association or the registered journalism organization under the Act is revoked;

(2) Subsection (1) comes into force on January 1, 2020.

Refundable Labour Tax Credit

52 (1) Subsection 87(2) of the Act is amended by adding the following after paragraph (j.95):

Journalism organizations

(j.96) for the purposes of section 125.6, 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, 2019.

53 (1) The Act is amended by adding the following after section 125.5:

Definitions

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

assistance means an amount, other than an amount deemed under subsection (2) to have been paid, that would be included under paragraph 12(1)(x) in computing the income of a taxpayer for any taxation year if that paragraph were read without reference to

(a) subparagraphs 12(1)(x)(v) to (viii), if the amount were received

(i) from a person or partnership described in subparagraph 12(1)(x)(ii), or

(ii) in circumstances where clause 12(1)(x)(i)(C) applies; and

(b) subparagraphs 12(1)(x)(v) to (vii), in any other case. (*montant d'aide*)

eligible newsroom employee, in respect of a qualified Canadian journalism organization in a taxation year, means an individual who

(a) is employed by the organization in the taxation year;

(b) works, on average, a minimum of 26 hours per week throughout the portion of the taxation year in which the individual is employed by the organization;

(c) at any time in the taxation year, has been, or is reasonably expected to be, employed by the organization for a minimum period of 40 consecutive weeks that includes that time;

(d) spends at least 75% of their time engaged in the production of news content, including by researching, collecting information, verifying facts, photographing, writing, editing, designing and otherwise preparing content; and

(e) meets any prescribed conditions. (*employé de salle de presse admissible*)

qualifying journalism organization, at any time, means a qualified Canadian journalism organization that meets the following conditions:

(a) it is primarily engaged in the production of original written news content;

(b) it does not carry on a *broadcasting undertaking* as defined in subsection 2(1) of the *Broadcasting Act*;

(c) it does not, in the taxation year in which the time occurs, receive an amount from the Aid to Publishers component of the Canada Periodical Fund; and

(d) if it is a corporation having share capital, it meets the conditions in subparagraph (e)(iii) of the definition *Canadian newspaper* in subsection 19(5). (*organisation journalistique admissible*)

qualifying labour expenditure, of a taxpayer for a taxation year in respect of an eligible newsroom employee, means the lesser of

(a) the amount determined by the formula

$55,000 × A/365

where

A is the lesser of 365 and the number of days in the taxation year, and

(b) the amount that is the salary or wages payable by the taxpayer to the eligible newsroom employee in respect of the portion of the taxation year throughout which the taxpayer is a qualified Canadian journalism organization. (*dépense de main-d'œuvre admissible*)

Tax credit

(2) A taxpayer that is a qualifying journalism organization at any time in a taxation year and that files a prescribed form containing prescribed information with its return of income for the year is deemed to have, on its balance-due day for the year, paid on account of its tax payable under this Part for the year an amount determined by the formula

0.25 × (A – B)

where

A is the total of all amounts each of which is a qualifying labour expenditure of the qualified Canadian journalism organization for the year in respect of an eligible newsroom employee; and

B is the total of all amounts each of which is an amount of assistance that the taxpayer has received, is entitled to receive or can reasonably be expected to receive, in respect of the year that has not been repaid before the end of the year pursuant to a legal obligation to do so (and that does not reduce the amount determined for A).

When assistance received

(3) For the purposes of this Act other than this section, and for greater certainty, the amount that a corporation is deemed under subsection (2) to have paid for a taxation year is assistance received by the corporation from a government immediately before the end of the year.

(2) Subsection (1) is deemed to have come into force on January 1, 2019. For greater certainty, it does not apply in respect of salary or wages that are in respect of a period before January 1, 2019.

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

(b) the amount of tax, if any, deemed by subsection 120(2) or (2.2), 122.5(3), 122.51(2), 122.7(2) or (3), 122.8(4), 122.9(2), 122.91(1), 125.4(3), 125.5(3), 125.6(2), 127.1(1), 127.41(3) 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, 2019.

55 (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), 127.1(1) or 127.41(3) to have been paid on account of the corporation's tax payable under this Part for the year.

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

56 (1) 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), 127.1(1) or 127.41(3) to have been paid on account of the corporation's tax payable under this Part for the taxation year.

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

57 (1) Subsection 163(2) of the Act is amended by striking out "and" at the end of paragraph (f), by adding "and" at the end of paragraph (g) and by adding the following after paragraph (g):

(h) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.6(2) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person.

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

58 (1) Subparagraph 164(1)(a)(ii) of the Act is replaced by the following:

(ii) before sending the notice of assessment for the year, where the taxpayer is a qualified corporation (as defined in subsection 125.4(1)), an eligible production corporation (as defined in subsection 125.5(1)) or a qualified Canadian journalism organization and an amount is deemed under subsection 125.4(3), 125.5(3) or 125.6(2) to have been paid on account of its tax payable under this Part for the year, refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the total of those amounts so deemed to have been paid, and

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

59 (1) Paragraph 241(4)(d) of the Act is amended by adding the following after subparagraph (xvi):

(xvi.1) to a person employed or engaged in the service of an office or agency, of the Government of Canada or of a province, whose mandate includes the provision of assistance (as defined in subsection 125.6(1)) in respect of qualified Canadian journalism organizations, solely for the purpose of the administration or enforcement of the program under which the assistance is offered,

(xvi.2) to a body referred to in paragraph (b) of the definition *qualified Canadian journalism organization* in subsection 248(1), solely for the purpose of determining eligibility for designation under that paragraph,

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

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

qualified Canadian journalism organization, at any time, means a corporation, partnership or trust that

(a) meets the following conditions:

(i) in the case of a corporation,

(A) it is incorporated under the laws of Canada or a province,

(B) the chairperson or other presiding officer, and at least 3/4 of the directors or other similar officers, are citizens of Canada, and

(C) it is resident in Canada,

(ii) in the case of a partnership,

(A) it is formed under the laws of a province, and

(B) individuals who are citizens of Canada or persons, or partnerships, described in any of subparagraphs (i) to (iii) hold interests in the partnership

(I) representing in value at least 75% of the total value of the partnership property, and

(II) that result in at least 75% of each income or loss of the partnership from any source being included in the determination of their incomes,

(iii) in the case of a trust,

(A) it is formed under the laws of a province,

(B) it is resident in Canada, and

(C) if interests as a beneficiary under the trust are held by one or more persons or partnerships, at least 75% of the fair market value of all interests as a beneficiary under the trust are held by

(I) individuals who are citizens of Canada, or

(II) persons or partnerships described in any of subparagraphs (i) to (iii),

(iv) it operates in Canada, including that its content is edited, designed and, except in the case of digital content, published in Canada,

(v) it is primarily engaged in the production of original news content which

(A) must be primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and

(B) must not be primarily focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment,

(vi) it regularly employs two or more journalists who deal at arm's length with the organization in the production of its content,

(vii) it is not significantly engaged in the production of content

(A) to promote the interests, or report on the activities, of an organization, an association or its members,

(B) for a government, Crown corporation or government agency, or

(C) to promote goods or services, and

(viii) it is not a Crown corporation, municipal corporation or government agency; and

(b) is designated at that time by a body prescribed for the purpose of this definition; (*organisation journalistique canadienne qualifiée*)

(2) Subsection (1) is deemed to have come into force on January 1, 2019.

Personal Income Tax Credit for Digital Subscriptions

61 (1) The Act is amended by adding the following after section 118.01:

Definitions

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

digital news subscription, of an individual with a qualified Canadian journalism organization, means an agreement entered into between the individual and the qualified Canadian journalism organization, if

(a) the agreement entitles an individual to access content of the qualified Canadian journalism organization in digital form; and

(b) the qualified Canadian journalism organization is primarily engaged in the production of original written news content and is not engaged in a *broadcasting undertaking* as defined in subsection 2(1) of the *Broadcasting Act*. (*abonnement aux nouvelles numériques*)

qualifying subscription expense, for a taxation year, means the amount paid in the year for a digital news subscription of an individual with a qualified Canadian journalism organization and, for this purpose, if the digital news subscription provides access to content in non-digital form or content other than content of qualified Canadian journalism organizations, the amount considered to be paid for the digital news subscription shall not exceed

(a) the cost of a comparable digital news subscription with the qualified Canadian journalism organization that solely provides access to content of qualified Canadian journalism organizations in digital form; and

(b) if there is no such comparable digital news subscription, 1/2 of the amount actually paid. (*dépense pour abonnement admissible*)

Digital news subscription tax credit

(2) For the purpose of computing the tax payable under this Part by an individual for a taxation year that is before 2025, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the year; and

B is the lesser of

(a) $500, and

(b) the total of all amounts each of which is a qualifying subscription expense of the individual for the year.

Apportionment of credit

(3) If more than one individual is entitled to a deduction under this section for a taxation year in respect of a qualifying subscription expense, the total of all amounts so deductible shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals in respect of the qualifying subscription expense, if that individual were the only individual entitled to deduct an amount for the year under this section, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

(2) Subsection (1) applies to the 2020 and subsequent taxation years.

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

Ordering of credits

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

(2) Subsection (1) comes into force on January 1, 2020.

63 Section 241 of the Act is amended by adding the following after subsection (3.3):

Information may be communicated

(3.4) The Minister may communicate or otherwise make available to the public, in any manner that the Minister considers appropriate, the following taxpayer information:

(a) the names of each organization with respect to which an individual can be entitled to a deduction under subsection 118.02(2); and

(b) the start and, if applicable, end of the period in which paragraph (a) applies in respect of any particular organization.

Business Investment in Zero-Emission Vehicles

64 (1) Subsection 13(7) of the Act is amended by striking out "and" at the end of paragraph (g), by adding "and" at the end of paragraph (h) and by adding the following after paragraph (h):

(i) if the cost to a taxpayer of a zero-emission passenger vehicle exceeds the prescribed amount,

(i) the capital cost to the taxpayer of the vehicle is deemed to be equal to the prescribed amount, and

(ii) for the purposes of paragraph (a) of the description of F in the definition *undepreciated capital cost* in subsection (21), the proceeds of disposition of the vehicle are deemed to be the amount determined by the formula

A × B/C

where

A is the amount that would, in the absence of this subparagraph, be the proceeds of disposition of the vehicle,

B is

(a) if the vehicle is disposed of to a person or partnership with which the taxpayer deals at arm's length, the capital cost to the taxpayer of the vehicle, and

(b) in any other case, the cost to the taxpayer of the vehicle, and

C is the cost to the taxpayer of the vehicle.

(2) Subsection (1) is deemed to have come into force on Budget Day.

65 (1) The portion of subsection 20(4) of the Act before paragraph (a) is replaced by the following:

Bad debts — dispositions of depreciable property

(4) If an amount that is owing to a taxpayer as or on account of the proceeds of disposition of depreciable property (other than a timber resource property, a passenger vehicle to which paragraph 13(7)(g) applies or a zero-emission passenger vehicle to which paragraph 13(7)(i) applies) of the taxpayer of a prescribed class is established by the taxpayer to have become a bad debt in a taxation year, there may be deducted in computing the taxpayer's income for the year the lesser of

(2) Section 20 of the Act is amended by adding the following after subsection (4.1):

Bad debts — zero-emission passenger vehicles

(4.11) If an amount that is owing to a taxpayer as or on account of the proceeds of disposition of a zero-emission passenger vehicle of the taxpayer to which paragraph 13(7)(i) applies is established by the taxpayer to have become a bad debt in a taxation year, there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the amount that would be determined by the formula in subparagraph 13(7)(i)(ii) in respect of the disposition if the amount determined for A in the formula were the amount owing to the taxpayer, and

(b) the amount determined by the formula

A – B

where

A is the capital cost to the taxpayer of the vehicle, and

B is the amount that would be determined by the formula in subparagraph 13(7)(i)(ii) in respect of the disposition if the amount determined for A in the formula were the total amount, if any, realized by the taxpayer on account of the proceeds of disposition.

(3) Subsections (1) and (2) are deemed to have come into force on Budget Day.

66 (1) The portion of section 67.2 of the Act before the formula is replaced by the following:

Interest on money borrowed for certain vehicles

67.2 For the purposes of this Act, if an amount is paid or payable for a period by a person in respect of interest on borrowed money used to acquire a passenger vehicle or zero-emission passenger vehicle, or on an amount paid or payable for the acquisition of such a vehicle, then in computing the person's income for a taxation year the amount of interest so paid or payable is deemed to be the lesser of the actual amount paid or payable and the amount determined by the formula

(2) Subsection (1) is deemed to have come into force on Budget Day.

67 (1) The Act is amended by adding the following after section 67.4:

More than one owner

67.41 If a person owns a zero-emission passenger vehicle jointly with one or more other persons, any reference in paragraph 13(7)(i) to the prescribed amount and in section 67.2 to the amount of $250 or such other amount as may be prescribed is to be read as a reference to that proportion of each of those amounts that the fair market value of the first-mentioned person's interest in the vehicle is of the fair market value of the interests in the vehicle of all those persons.

(2) Subsection (1) is deemed to have come into force on Budget Day.

68 (1) Subsection 85(1) of the Act is amended by adding the following after paragraph (e.4):

(e.5) if the property is depreciable property of a prescribed class of the taxpayer that is a zero-emission passenger vehicle to which paragraph 13(7)(i) applies and the taxpayer and the corporation do not deal at arm's length,

(i) the amount that the taxpayer and the corporation have agreed on in their election in respect of the vehicle is deemed to be an amount equal to the cost amount to the taxpayer of the vehicle immediately before the disposition, and

(ii) for the purposes of subsection 6(2), the cost to the corporation of the vehicle is deemed to be an amount equal to its fair market value immediately before the disposition;

(2) Subsection (1) is deemed to have come into force on Budget Day.

69 (1) The definition *passenger vehicle* in subsection 248(1) of the Act is replaced by the following:

passenger vehicle means an automobile

(a) acquired after June 17, 1987, other than an automobile that is acquired after that date pursuant to an obligation in writing entered into before June 18, 1987 or that is a zero-emission vehicle, or

(b) leased under a lease entered into, extended or renewed after June 17, 1987; (*voiture de tourisme*)

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

zero-emission passenger vehicle, of a taxpayer, means an automobile of the taxpayer that is included in Class 54 of Schedule II to the *Income Tax Regulations*; (*voiture de tourisme zéro émission*)

zero-emission vehicle, of a taxpayer, means a motor vehicle that

(a) is a plug-in hybrid with a battery capacity of at least 15 kWh or is fully

(i) electric, or

(ii) powered by hydrogen,

(b) is acquired, and becomes available for use, by the taxpayer on or after Budget Day and before 2028, and

(c) is not a vehicle

(i) that has been used, or acquired for use, for any purpose before it was acquired by the taxpayer, or

(ii) in respect of which

(A) the taxpayer has, at any time, made an election under subsection 1103(2j) of the *Income Tax Regulations*,

(B) assistance has been paid by the Government of Canada under a prescribed program, or

(C) an amount has been deducted under paragraph 20(1)(a) or subsection 20(16) by another person or partnership. (*véhicule zéro émission*)

(3) Subsections 248(17) and (17.1) of the Act are replaced by the following:

Application of subsection (16) to certain vehicles and aircraft

(17) If the input tax credit of a taxpayer under Part IX of the *Excise Tax Act* in respect of a passenger vehicle, zero-emission passenger vehicle or aircraft is determined with reference to subsection 202(4) of that Act, subparagraphs (16)(a)(i) to (iii) are to be read as they apply in respect of the vehicle or aircraft, as the case may be, as follows:

"(i) at the beginning of the first taxation year or fiscal period of the taxpayer commencing after the end of the taxation year or fiscal period, as the case may be, in which the goods and services tax in respect of such property was considered for the purposes of determining the input tax credit to be payable, if the tax was considered for the purposes of determining the input tax credit to have become payable in the reporting period, or

(ii) if no such tax was considered for the purposes of determining the input tax credit to have become payable in the reporting period, at the end of the reporting period; or".

Application of subsection (16.1) to certain vehicles and aircraft

(17.1) If the input tax refund of a taxpayer under *An Act respecting the Québec sales tax*, R.S.Q., c. T-0.1, in respect of a passenger vehicle, zero-emission passenger vehicle or aircraft is determined with reference to section 252 of that Act, subparagraphs (16.1)(a)(i) to (iii) are to be read as they apply in respect of the vehicle or aircraft, as the case may be, as follows:

"(i) at the beginning of the first taxation year or fiscal period of the taxpayer that begins after the end of the taxation year or fiscal period, as the case may be, in which the Quebec sales tax in respect of such property was considered for the purposes of determining the input tax refund to be payable, if the tax was considered for the purposes of determining the input tax refund to have become payable in the reporting period, or

(ii) if no such tax was considered for the purposes of determining the input tax refund to have become payable in the reporting period, at the end of the reporting period; or".

(4) Subsections (1) to (3) are deemed to have come into force on Budget Day.

70 (1) Paragraph 1100(1)(a) of the Regulations is amended by striking out "and" at the end of subparagraph (xxxviii) and by adding the following after subparagraph (xxxix):

(xl) of Class 54, 30 per cent, and

(xli) of Class 55, 40 per cent,

(2) Subsection 1100(2) of the Regulations is amended by incorporating the following into the formula contained in the Notice of Ways and Means Motion to amend the *Income Tax Act* and the *Income Tax Regulations* tabled in the House of Commons on November 21, 2018:

$$X(Y - Z)$$

where

X is

(a) if the class is Class 54

(i) 2 1/3, in respect of property that becomes available for use before 2024,

(ii) 1 1/2, in respect of property that becomes available for use in 2024 or 2025, and

(iii) 5/6, in respect of property that becomes available for use after 2025, and

(b) if the class is Class 55

(i) 1 1/2, in respect of property that becomes available for use before 2024,

(ii) 7/8, in respect of property that becomes available for use in 2024 or 2025, and

(iii) 3/8, in respect of property that becomes available for use after 2025;

Y is the total of all amounts each of which is an amount included, in respect of the class, under element A of the definition *undepreciated capital cost* in subsection 13(21) of the Act in respect of a property that became available for use by the taxpayer in the year; and

Z is the total of all amounts each of which is an amount included, in respect of the class, under element F of that definition in respect of property disposed of in the year.

71 (1) The portion of subsection 1102(14) of the Regulations before paragraph (a) is replaced by the following:

(14) Subject to subsections (14.11) to (14.13), for the purposes of this Part and Schedule II, if a property is acquired by a taxpayer

(2) Section 1102 of the Regulations is amended by adding the following after subsection (14.12):

(14.13) Subsection (14) does not apply to an acquisition of property by a taxpayer from a person in respect of which the property is a zero-emission vehicle included in Class 54 or 55.

(3) Section 1102 of the Regulations is amended by adding the following after subsection (25):

(26) For the purpose of clause (c)(ii)(B) of the definition *zero-emission vehicle* in subsection 248(1) of the Act, the federal purchase incentive described in the budget documents tabled by the Minister of Finance on Budget Day is a prescribed program.

(4) Subsections (1) to (3) are deemed to have come into force on Budget Day.

72 (1) Section 1103 of the Regulations is amended by adding the following after subsection (2i):

(2j) A taxpayer may, in its return of income filed with the Minister on or before its filing-due date for the taxation year in which a property is acquired, elect not to include the property in Class 54 or 55 in Schedule II, as the case may be.

(2) Subsection (1) is deemed to have come into force on Budget Day.

73 (1) Section 7307 of the Regulations is amended by adding the following after subsection (1):

(1.1) For the purposes of paragraph 13(7)(i) of the Act, the amount prescribed in respect of a zero-emission passenger vehicle of a taxpayer is the amount determined by the formula

A + B

where

A is $55,000; and

B is the sum that would have been payable in respect of federal and provincial sales taxes on the acquisition of the vehicle if it had been acquired by the taxpayer at a cost equal to A, before the application of the federal and provincial sales taxes.

(2) Subsection (1) is deemed to have come into force on Budget Day.

74 (1) Schedule II to the Regulations is amended by adding the following after Class 53:

CLASS 54

Property that is a zero-emission vehicle that is not included in Class 16 or 55.

CLASS 55

Property that is a zero-emission vehicle that would otherwise be included in Class 16.

(2) Subsection (1) is deemed to have come into force on Budget Day.

Small Business Deduction — Farming and Fishing

75 (1) The definition *specified cooperative income* in subsection 125(7) of the Act is repealed.

(2) The portion of subparagraph (a)(i) of the definition *specified corporate income* in subsection 125(7) of the Act before clause (A) is replaced by the following:

(i) the total of all amounts each of which is income (other than specified farming or fishing income of the corporation for the year) from an active business of the corporation for the year from the provision of services or property to a private corporation (directly or indirectly, in any manner whatever) if

(3) Subsection 125(7) of the Act is amended by adding the following in alphabetical order:

specified farming or fishing income, of a particular corporation for a taxation year, means income of the particular corporation (other than an amount included in the particular corporation's income under subsection 135(7)), if

(a) the income is from the sale of the farming products or fishing catches of the particular corporation's farming or fishing business to another corporation, and

(b) the particular corporation deals at arm's length with the other corporation; (*revenu d'agriculture ou de pêche déterminé*)

(4) Subsections (1) to (3) apply to taxation years that begin after March 21, 2016. Any assessment of a taxpayer's tax, interest and penalties payable under the Act for any taxation year that ends before Budget Day that would, in the absence of this subsection, be precluded because of subsections 152(4) to (5) of the Act is to be made to the extent necessary to take into account subsections (1) to (3).

Scientific Research and Experimental Development Program

76 (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) 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) 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) Paragraph 87(2)(oo) of the Act is repealed.

(3) Subsections (1) and (2) apply to taxation years that end on or after Budget Day.

77 (1) Paragraph 88(1)(e.8) of the Act is repealed.

(2) Subsection (1) applies to taxation years that end on or after Budget Day.

78 (1) Subsection 127(10.2) of the Act is replaced by the following:

Expenditure limit

(10.2) For the purpose of subsection (10.1), a particular corporation's expenditure limit for a particular taxation year is the amount determined by the formula

$3 million × ($40 million – A)/$40 million

where

A is

(a) nil, if the following amount is less than or equal to $10 million:

(i) if the particular corporation is not associated with any other corporation in the particular taxation year, the amount that is its taxable capital employed in Canada (within the meaning assigned by section 181.2 or 181.3) for its immediately preceding taxation year, and

(ii) if the particular corporation is associated with one or more other corporations in the particular taxation year, the amount that is the total of all amounts, each of which is the taxable capital employed in Canada (within the meaning assigned by section 181.2 or 181.3) of the particular corporation for its, or of one of the other corporations for its, last taxation year that ended in the last calendar year that ended before the end of the particular taxation year, and

(b) in any other case, the lesser of $40 million and the amount by which the amount determined under subparagraph (a)(i) or (ii), as the case may be, exceeds $10 million.

(2) Subsection 127(10.6) of the Act is amended by adding "and" at the end of paragraph (a), by striking out "and" at the end of paragraph (b) and by repealing paragraph (c).

(3) Subsections (1) and (2) apply to taxation years that end on or after Budget Day.

Canadian-Belgian Co-productions — Canada Film or Video Production Tax Credit

79 (1) Subsection 1106(3) of the Regulations is amended by striking out "and" at the end of paragraph (d), by adding "and" at the end of paragraph (e) and by adding the following after paragraph (e):

(f) the Memorandum of Understanding between the Government of Canada and the Respective Governments of the Flemish, French and German-speaking Communities of the Kingdom of Belgium concerning Audiovisual Coproduction.

(2) Subsection (1) is deemed to have come into force on March 12, 2018.

Character Conversion Transactions

80 (1) Subparagraph (b)(i) of the definition *derivative forward agreement* in subsection 248(1) of the Act is replaced by the following:

(i) revenue, income or cashflow in respect of the property over the term of the agreement, changes in the fair market value of the property over the term of the agreement, or any similar criteria in respect of the property unless

(A) the property is

(I) a *Canadian security* (in this subparagraph as defined in subsection 39(6)), or

(II) an interest in a partnership the fair market value of which is derived, in whole or in part, from a Canadian security,

(B) the purchase agreement is an agreement to acquire property from

(I) a tax-indifferent investor, or

(II) a *financial institution* (as defined in subsection 142.2(1)), and

(C) it can reasonably be considered that one of the main purposes of the series of transactions or events, or any transaction or event in the series, of which the purchase agreement is part is for all or any portion of the capital gain on a disposition of a Canadian security referred to in clause (A) — as part of the same series of transactions or events — to be attributable to amounts paid or payable on the Canadian security by the issuer of the Canadian security during the term of the purchase agreement as

(I) interest,

(II) dividends, or

(III) income of a trust other than income paid out of the taxable capital gains of the trust,

(2) Subsection (1) is deemed to have come into force on Budget Day. However, it does not apply before 2020 in respect of

(a) an agreement that is entered into after the final settlement of another derivative forward agreement (in this paragraph referred to as the "prior agreement") if

(i) having regard to the source of the funds used to purchase the property to be sold under the agreement, it is reasonable to conclude that the agreement is a continuation of the prior agreement,

(ii) the terms of the agreement and the prior agreement are substantially similar,

(iii) the final settlement date under the agreement is before 2020,

(iv) subsection (1) does not apply to the prior agreement, and

(v) the notional amount of the agreement is at all times less than or equal to the amount determined by the formula

$$(A + B + C + D + E) - (F + G)$$

where

A is the notional amount of the agreement when it is entered into,

B is the total of all amounts each of which is an increase in the notional amount of the agreement, at or before that time, that is attributable to the underlying interest,

C is the amount of the taxpayer's cash on hand immediately before Budget Day that was committed, before Budget Day, to be invested under the agreement,

D is the total of all amounts each of which is an increase, at or before that time, in the notional amount of the agreement that is attributable to the final settlement of another derivative forward agreement if subsection (1) does not apply to the other agreement,

E is the lesser of

(A) either

(I) if the prior agreement was entered into before Budget Day, the amount, if any, by which the amount determined under subparagraph (i) of the description of F in paragraph (b) for the prior agreement immediately before it was finally settled exceeds the total determined under subparagraph (ii) of the description of F in paragraph (b) for the prior agreement immediately before it was finally settled, or

(II) in any other case, the amount, if any, by which the amount determined under this clause for the prior agreement immediately before it was finally settled exceeds the total determined under clause (B) for the prior agreement immediately before it was finally settled, and

(B) the total of all amounts each of which is an increase in the notional amount of the agreement before 2020 that is not otherwise described in this formula,

F is the total of all amounts each of which is a decrease in the notional amount of the agreement, at or before that time, that is attributable to the underlying interest, and

G is the total of all amounts each of which is the amount of a partial settlement of the agreement, at or before that time, to the extent that it is not reinvested in the agreement; or

(b) an agreement that is entered into before Budget Day, unless at any time on or after Budget Day, the notional amount of the agreement exceeds the amount determined by the formula

$$(A + B + C + D + E + F) - (G + H)$$

where

A is the notional amount of the agreement immediately before Budget Day,

B is the total of all amounts each of which is an increase in the notional amount of the agreement, on or after Budget Day and at or before that time, that is attributable to the underlying interest,

C is the amount of the taxpayer's cash on hand immediately before Budget Day that was committed, before Budget Day, to be invested under the agreement,

D is the amount, if any, of an increase, on or after Budget Day and at or before that time, in the notional amount of the agreement as a consequence of the exercise of an over-allotment option granted before Budget Day,

E is the total of all amounts each of which is an increase, on or after Budget Day and at or before that time, in the notional amount of the agreement that is attributable to the final settlement of another derivative forward agreement if subsection (1) does not apply to the other agreement,

F is the lesser of

(i) 5% of the notional amount of the agreement immediately before Budget Day, and

(ii) the total of all amounts each of which is an increase in the notional amount of the agreement on or after Budget Day and before 2020 that is not otherwise described in this formula,

G is the total of all amounts each of which is a decrease in the notional amount of the agreement, on or after Budget Day and at or before that time, that is attributable to the underlying interest, and

H is the total of all amounts each of which is the amount of a partial settlement of the agreement, on or after Budget Day and at or before that time, to the extent that it is not reinvested in the agreement.

(3) For the purposes of subsection (2), the notional amount of a derivative forward agreement at any time is the fair market value at that time of the property that would be acquired under the agreement if the agreement were finally settled at that time.

Transfer Pricing Measures

Order of Application of the Transfer Pricing Rules

81 (1) Section 247 of the Act is amended by adding the following after subsection (1):

Order of applying provisions

(1.1) For the purpose of applying the provisions of this Act, the adjustments under Part XVI.1 shall be made before any other provision of the Act is applied.

(2) Subsection 247(8) of the Act is repealed.

(3) Subsections (1) and (2) apply to taxation years that begin on or after Budget Day.

Applicable Reassessment Period

82 (1) Clause 152(4)(b)(iii)(A) of the Act is replaced by the following:

(A) as a consequence of a *transaction* (as defined in subsection 247(1)) involving the taxpayer and a non-resident person with whom the taxpayer was not dealing at arm's length, or

(2) Subsection (1) applies to taxation years of a taxpayer in respect of which the *normal reassessment period* (as defined in subsection 152(3.1) of the Act) for the taxpayer ends on or after Budget Day.

Foreign Affiliate Dumping

83 (1) Subsection 17.1(2) of the Act is replaced by the following:

Acquisition of control

(2) If at any time a parent or group of parents referred to in section 212.3 acquires control of a CRIC and the CRIC was not controlled by a non-resident person, or a group of non-resident persons not dealing with each other at arm's length, immediately before that time, no amount is to be included under subsection (1) in computing the income of the CRIC in respect of a *pertinent loan or indebtedness* (as defined in subsection 212.3(11)) for the period that begins at that time and ends on the day that is 180 days after that time.

(2) Subsection (1) applies in respect of transactions or events that occur on or after Budget Day.

84 (1) The portion of paragraph 128.1(1)(c.3) of the Act before subparagraph (i) is replaced by the following:

(c.3) if the taxpayer is a corporation that was, immediately before the particular time, controlled by one non-resident person or, if no single non-resident person controlled the CRIC, a group of non-resident persons not dealing with each other at arm's length (in this section, that one non-resident person, or each member of the group of non-resident persons, as the case may be, is referred to as a "parent", and the group of non-resident persons, if any, is referred to as the "group of parents") and the taxpayer owned, immediately before the particular time, one or more shares of one or

more non-resident corporations (each of which is in this paragraph referred to as a "subject affiliate") that, immediately after the particular time, were — or that became, as part of a transaction or event or series of transactions or events that includes the taxpayer having become resident in Canada — foreign affiliates of the taxpayer, then

(2) Subparagraph 128.1(1)(c.3)(ii) of the Act is replaced by the following:

(ii) for the purposes of Part XIII, the taxpayer is deemed, immediately after the particular time, to have paid to each parent, and each parent is deemed, immediately after the particular time, to have received from the taxpayer, a dividend in an amount determined by the formula

(A – B) × C/D

where

A is the amount determined under clause (B) of the description of A in subparagraph (i),

B is the amount determined under clause (A) of the description of A in subparagraph (i),

C is the fair market value, immediately after the particular time, of the shares of the capital stock of the taxpayer that are held, directly or indirectly, by the parent, and

D is total of all amounts each of which is the fair market value, immediately after the particular time, of the shares of the capital stock of the taxpayer that are held, directly or indirectly, by a parent.

(3) Subsections (1) and (2) apply in respect of transactions or events that occur on or after Budget Day.

85 (1) The portion of paragraph 212.3(1)(b) of the Act before clause (i)(A) is replaced by the following:

(b) the CRIC or an other Canadian corporation is immediately after the investment time, or becomes after the investment time and as part of a transaction or event or series of transactions or events that includes the making of the investment, controlled by one non-resident person or, if no single non-resident person controls the CRIC, by a group of non-resident persons not dealing with each other at arm's length (in this section, that one non-resident person, or each member of the group of non-resident persons, as the case may be, is referred to as a "parent", and the group of non-resident persons, if any, is referred to as the "group of parents"), and any of the following conditions is satisfied:

(i) if, at the investment time, a parent owned all shares of the capital stock of the CRIC and the other Canadian corporation, if applicable, that are owned — determined without reference to paragraph (25)(b) in the case of partnerships referred to in this subparagraph and as if all rights referred to in paragraph 251(5)(b), of the parent, each person that does not deal at arm's length with the parent and all of those partnerships, were immediate and absolute and the parent and each of the other persons and partnerships had exercised those rights at the investment time — by the parent, persons that are not dealing at arm's length with the parent and partnerships of which the parent or a non-resident person that is not dealing at arm's length with the parent is a member (other than a limited partner within the meaning assigned by subsection 96(2.4)), the parent would own shares of the capital stock of the CRIC or the other Canadian corporation that

(2) Paragraph 212.3(2)(a) of the Act is replaced by the following:

(a) for the purposes of this Part and subject to subsections (3) and (7), the CRIC is deemed to have paid to each parent, and each parent is deemed to have received from the CRIC, at the dividend time, a dividend in an amount determined by the formula

A × B/C

where

A is the total of all amounts each of which is the portion of the fair market value at the investment time of any property (not including shares of the capital stock of the CRIC) transferred, any obligation assumed or incurred, or any benefit otherwise conferred, by the CRIC, or of any property transferred to the CRIC which transfer results in the reduction of an amount owing to the CRIC, that can reasonably be considered to relate to the investment,

B is

(i) if there is one parent, one, and

(ii) if there is a group of parents, the fair market value at the dividend time of the shares of the capital stock of the CRIC that are held, directly or indirectly, by the parent, and

C is

(i) if there is one parent, one, and

(ii) if there is a group of parents, the total of all amounts each of which is the fair market value at the dividend time of the shares of the capital stock of the CRIC that are held, directly or indirectly, by a parent; and

(3) Subsection 212.3(3) of the Act is replaced by the following:

Dividend substitution election

(3) If a CRIC (or a CRIC and a corporation that is a qualifying substitute corporation in respect of the CRIC at the dividend time) and a parent (or a parent and another non-resident person that at the dividend time is related to the parent) jointly elect in writing under this subsection in respect of an investment, and the election is filed with the Minister on or before the filing-due date of the CRIC for its taxation year that includes the dividend time, then the dividend that would, in the absence of this subsection, be deemed under paragraph (2)(a) to have been paid by the CRIC to the parent and received by the parent from the CRIC is deemed to have instead been

(a) paid by the CRIC or the qualifying substitute corporation, as agreed on in the election; and

(b) paid to, and received by, the parent or the other non-resident person, as agreed on in the election.

(4) Subsection 212.3(4) of the Act is replaced by the following:

Definitions

(4) The following definitions apply in this section.

cross-border class, in respect of an investment, means a class of shares of the capital stock of a CRIC or qualifying substitute corporation if, immediately after the dividend time in respect of the investment,

(a) a parent, or a non-resident person that does not deal at arm's length with a parent, owns at least one share of the class; and

(b) no more than 30% of the issued and outstanding shares of the class are owned by one or more persons resident in Canada that do not deal at arm's length with a parent. (*catégorie transfrontalière*)

dividend time, in respect of an investment, means

(a) if the CRIC is controlled by a parent or group of parents at the investment time, the investment time; and

(b) in any other case, the earlier of

(i) the first time, after the investment time, at which the CRIC is controlled by a parent or group of parents, as the case may be, and

(ii) the day that is one year after the day that includes the investment time. (*moment du dividende*)

qualifying substitute corporation, at any time in respect of a CRIC, means a corporation resident in Canada

(a) that is, at that time, controlled by

(i) a parent,

(ii) a group of parents, or

(iii) a non-resident person that does not deal at arm's length with a parent;

(b) that has, at that time, an equity percentage (as defined in subsection 95(4)) in the CRIC; and

(c) shares of the capital stock of which are, at that time, owned by a parent or another non-resident person with which the parent does not, at that time, deal at arm's length. (*société de substitution admissible*)

(5) Subsection 212.3(5.1) of the Act is replaced by the following:

Sequential investments — paragraph (10)(f)

(5.1) In the case of an investment (in this subsection referred to as the "second investment") in a subject corporation by a CRIC described in paragraph (10)(f), the amount determined for A in paragraph (2)(a) in respect of the second investment is to be reduced by the amount determined for A in paragraph (2)(a) in respect of a prior investment (in this subsection referred to as the "first investment") in the subject corporation by another corporation resident in Canada if

(a) the first investment is an investment that is described in paragraph (10)(a) or (b) and to which paragraph (2)(a) applies;

(b) immediately after the investment time in respect of the first investment, the other corporation is not controlled by,

(i) if there is one parent in respect of the CRIC, the parent, and

(ii) if there is a group of parents in respect of the CRIC, the group of parents; and

(c) the other corporation becomes, after the time that is immediately after the investment time in respect of the first investment and as part of a transaction or event or series of transactions or events that includes the making of the first investment, controlled by the parent or group of parents, as the case may be, because of the second investment.

(6) The portion of paragraph 212.3(6)(a) of the Act before subparagraph (i) is replaced by the following:

(a) a particular corporation resident in Canada that does not deal at arm's length with a parent

(7) The portion of clause 212.3(6)(a)(ii)(B) of the act before subclause (I) is replaced by the following:

(B) the increase in paid-up capital in respect of the particular class can reasonably be considered to be connected to funding provided to the particular corporation or another corporation resident in Canada (other than the corporation that issued the particular class) by a parent or a non-resident person that does not deal at arm's length with a parent, unless

(8) The portion of subparagraph 212.3(7)(a)(i) of the Act before clause (A) is replaced by the following:

(i) the amount determined, without reference to this subsection, for A in paragraph (2)(a), is reduced by the lesser of

(9) The portion of paragraph 212.3(7)(b) of the Act before subparagraph (i) is replaced by the following:

(b) where the amount determined, without reference to this paragraph, for A in paragraph (2)(a) is equal to or greater than the total of all amounts each of which is an amount of paid-up capital immediately after the dividend time, determined without reference to this paragraph, of a cross-border class in respect of the investment, then

(10) Paragraphs 212.3(7)(c) and (d) of the Act are replaced by the following:

(c) where paragraph (b) does not apply and there is at least one cross-border class in respect of the investment,

(i) the amount determined, without reference to this paragraph, for A in paragraph (2)(a) is reduced to nil,

(ii) in computing, at any time after the dividend time, the paid-up capital in respect of a particular cross-border class in respect of the investment, there is to be deducted the amount, if any, that when added to the total of all amounts that are deducted under this paragraph in computing the paid-up capital of other cross-border classes, results in the greatest total reduction because of this paragraph, immediately after the dividend time, of the paid-up capital in respect of shares of cross-border classes that are owned by a parent or another non-resident person with which a parent does not, at the dividend time, deal at arm's length,

(iii) if the proportion of the shares of a particular class owned, in aggregate, by parents and non-resident persons that do not deal at arm's length with parents is equal to the proportion so owned of one or more other cross-border classes (in this subparagraph all those classes, together with the particular class, referred to as the "relevant classes"), then the proportion that the reduction under subparagraph (ii) to the paid-up capital in respect of the particular class is of the paid-up capital, determined immediately after the dividend time and without reference to this paragraph, in respect of that class is to be equal to the proportion that the total reduction under subparagraph (ii) to the paid-up capital in respect of all the relevant classes is of the total paid-up capital, determined immediately after the dividend time and without reference to this paragraph, of all the relevant classes, and

(iv) the total of all amounts each of which is an amount to be deducted under subparagraph (ii) in computing the paid-up capital of a cross-border class is to be equal to the amount by which the amount determined for A in paragraph (2)(a) is reduced under subparagraph (i); and

(d) if the amount determined for A in paragraph (2)(a) is reduced because of any of subparagraphs (a)(i), (b)(i) and (c)(i),

(i) the CRIC shall file with the Minister in prescribed manner a form containing prescribed information and the amounts of the paid-up capital, determined immediately after the dividend time and without reference to this subsection, of each class of shares that is described in paragraph (a) or that is a cross-border class in respect of the investment, the paid-up capital of the shares of each of those classes that are owned by a parent or another non-resident person that does not, at the dividend time, deal at arm's length with a parent, and the reduction under any of subparagraphs (a)(ii), (b)(ii) and (c)(ii) in respect of each of those classes, and

(ii) if the form is not filed on or before the CRIC's filing-due date for its taxation year that includes the dividend time, the CRIC is deemed to have paid to each parent, and each parent is deemed to have received from the CRIC, on the filing-due date, a dividend equal to the total of all amounts each of which is the amount of a reduction because of any of subparagraphs (a)(i), (b)(i) and (c)(i) in the amount the CRIC is deemed under paragraph (2)(a) to have paid to the parent.

(11) The portion of paragraph 212.3(11)(c) of the Act before subparagraph (i) is replaced by the following:

(c) the CRIC and each parent jointly elect in writing under this paragraph in respect of the amount owing and file the election with the Minister on or before the filing-due date of the CRIC

(12) Paragraphs 212.3(15)(a) and (b) of the Act are replaced by the following:

(a) a CRIC or a taxpayer to which paragraph 128.1(1)(c.3) applies (in this subsection referred to as the "specific corporation"), that would, in the absence of this subsection, be controlled at any time

(i) by more than one non-resident person, is deemed not to be controlled at that time by any such non-resident that controls at that time another non-resident person that controls at that time the specific corporation, unless the application of this paragraph would otherwise result in no non-resident person controlling the specific corporation, and

(ii) by a particular non-resident corporation is deemed not to be controlled at that time by the particular corporation if the particular corporation is controlled at that time by another corporation that is at that time

(A) resident in Canada, and

(B) not controlled by any non-resident person or group of non-resident persons not dealing with each other at arm's length; and

(b) a non-resident person is deemed not to be a member of a particular group of non-resident persons not dealing with each other at arm's length that controls the specific corporation if

(i) the non-resident person would, absent the application of this paragraph, be a member of the particular group, and

(ii) the non-resident person is a member of the particular group solely because it controls, or is a member of a group that controls, another member of the particular group.

(13) The portion of paragraph 212.3(16)(a) before subparagraph (i) is replaced by the following:

(a) the business activities carried on by the subject corporation and all other corporations (those other corporations in this subsection and subsection (17) referred to as the "subject subsidiary corporations") in which the subject corporation has, at the investment time, an equity percentage (as defined in subsection 95(4)) are at the investment time, and are expected to remain, on a collective basis, more closely connected to the business activities carried on in Canada by the CRIC, or by any corporation resident in Canada with which the CRIC does not, at the investment time, deal at arm's length, than to the business activities carried on by any non-resident person with which the CRIC, at the investment time, does not deal at arm's length, other than

(14) Paragraph 212.3(18)(a) of the Act is replaced by the following:

(a) the investment is described in paragraph (10)(a) or (d) and is an acquisition of shares of the capital stock, or a debt obligation, of the subject corporation

(i) from a corporation resident in Canada (in this paragraph referred to as the "disposing corporation") to which the CRIC is, immediately before the investment time, related (determined without reference to paragraph 251(5)(b)), and

(A) each shareholder of the disposing corporation immediately before the investment time is,

(I) if there is only one parent in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

2 at no time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

2 at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(B) the disposing corporation is,

(I) if there is only one parent in respect of the CRIC, at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(ii) on an amalgamation described in subsection 87(1) of two or more corporations (each of which is in this subparagraph referred to as a "predecessor corporation") to form the CRIC if all of the predecessor corporations are, immediately before the amalgamation, related to each other (determined without reference to paragraph 251(5)(b)) and

(A) either

(I) if there is only one parent in respect of the CRIC, none of the predecessor corporations are, at any time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(II) if there is a group of parents in respect of the CRIC, all of the predecessor corporations are, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(B) if the condition in clause (A) is not satisfied in respect of a predecessor corporation, each shareholder of that predecessor immediately before the investment time is,

(I) if there is only one parent in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

2 at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

2 at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents;

(15) The portion of paragraph 212.3(18)(c) of the Act before subparagraph (iii) is replaced by the following:

(c) the investment is an indirect acquisition referred to in paragraph (10)(f) that results from a direct acquisition of shares of the capital stock of another corporation resident in Canada

(i) from a corporation (in this paragraph referred to as the "disposing corporation") to which the CRIC is, immediately before the investment time, related (determined without reference to paragraph 251(5)(b)) and

(A) each shareholder of the disposing corporation immediately before the investment time is

(I) if there is only one parent in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that, immediately before the investment time, is related to the parent, and

2 at no time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

2 at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(B) the disposing corporation is,

(I) if there is only one parent in respect of the CRIC, at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(ii) on an amalgamation described in subsection 87(1) of two or more corporations (each of which is in this subparagraph referred to as a "predecessor corporation") to form the CRIC, or a corporation of which the CRIC is a shareholder, if all of the predecessor corporations are, immediately before the amalgamation, related to each other (determined without reference to paragraph 251(5)(b)) and

(A) either

(I) if there is only one parent in respect of the CRIC, none of the predecessor corporations are, at any time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(II) if there is a group of parents in respect of the CRIC, all of the predecessor corporations are, at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents, or

(B) if the condition in clause (A) is not satisfied in respect of a predecessor corporation, each shareholder of that predecessor immediately before the investment time is

(I) if there is only one parent in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

2 at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident person that

participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, and

(II) if there is a group of parents in respect of the CRIC,

1 either the CRIC or a corporation resident in Canada that is, immediately before the investment time, controlled by the group of parents, and

2 at all times that are in the period during which the series of transactions or events that includes the making of the investment occurs and that are before the investment time, controlled by the group of parents;

(16) Susection 212.3(21) is replaced by the following:

Persons deemed not to be related

(21) If it can reasonably be considered that one of the main purposes of one or more transactions or events is to cause two or more persons to be related to each other, or a person or group of persons to control another person, so that, in the absence of this subsection, subsection (2) would not apply because of subsection (18) to an investment in a subject corporation made by a CRIC, those persons are deemed not to be related to each other, or that person or group of persons is deemed not to control that other person, as the case may be, for the purposes of subsection (18).

(17) Section 212.3 of the Act is amended by adding the following after subsection (25):

(26) For the purposes of this section, subsection 17.1(1) (as it applies in respect of a *pertinent loan or indebtedness* as defined in subsection (11)), paragraph 128.1(1)(c.3) and subsection 219.1(2) — and for the purpose of paragraph 251(1)(a) as it applies for the purposes of those provisions — in determining, at any time, whether two persons are related to each other or whether any person is controlled by any other person or group of persons, it shall be assumed that

(a) each trust is a corporation having a capital stock of a single class of voting shares divided into 100 issued shares;

(b) each beneficiary under a trust owned at that time the number of issued shares of that class determined by the formula

A/B × 100

where

A is the fair market value at that time of the beneficiary's interest in the trust, and

B is the total fair market value at that time of all beneficiaries' interests under the trust; and

(c) if a beneficiary's share of the income or capital of a trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power, the fair market value at any time of the beneficiary's interest under the trust is equal to the total fair market value at that time of all beneficiaries' interests under the trust.

(18) Subsections (1) to (17) apply in respect of transactions or events that occur on or after Budget Day.

86 (1) Paragraph 219.1(2)(b) of the Act is replaced by the following:

(b) the other corporation is controlled, at that time, by a non-resident person or a group of non-resident persons not dealing with each other at arm's length; and

(2) Subsection (1) applies in respect of transactions or events that occur on or after Budget Day.

Cross-Border Share Lending Arrangements

87 (1) Subsection 212(2.1) of the Act is replaced by the following:

Exempt dividends

(2.1) Subsection (2) does not apply to an amount paid or credited, by a borrower, under a securities lending arrangement or a specified securities lending arrangement if

(a) the amount is deemed by subparagraph 260(8)(a)(ii) to be a dividend;

(b) the arrangement is a fully collateralized arrangement; and

(c) the security that is transferred or lent to the borrower under the securities lending arrangement is a share of a class of the capital stock of a non-resident corporation.

(2) Paragraph (d) of the definition *fully exempt interest* in subsection 212(3) of the Act is replaced by the following:

(d) an amount paid or payable or credited under a securities lending arrangement, or a specified securities lending arrangement, that is deemed by subparagraph 260(8)(a)(i) to be a payment made by a borrower to a lender of interest, if the arrangement is a fully collateralized arrangement, and

(i) the following conditions are met:

(A) the arrangement was entered into by the borrower in the course of carrying on a business outside Canada, and

(B) the security that is transferred or lent to the borrower under the arrangement is described in paragraph (b) of the definition qualified security in subsection 260(1) and issued by a non-resident issuer,

(ii) the security that is transferred or lent to the borrower under the arrangement is described in paragraph (c) of the definition *qualified security* in subsection 260(1), or

(iii) the security that is transferred or lent to the borrower under the arrangement is described in paragraph (a) or (b).

(3) Subsections (1) and (2) apply in respect of amounts paid or payable or credited on or after Budget Day.

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

fully collateralized arrangement means a securities lending arrangement or a specified securities lending arrangement if, throughout the term of the arrangement, the borrower

(a) has provided the lender under the arrangement with money in an amount of, or securities described in paragraph (c) of the definition *qualified security* in subsection 260(1) that have a fair market value of, not less than 95% of the fair market value of the security that is transferred or lent under the arrangement, and

(b) is entitled to enjoy, directly or indirectly, the benefits of all or substantially all income derived from, and opportunity for gain in respect of, the money or securities provided; (*mécanisme entièrement garanti*)

specified securities lending arrangement has the meaning assigned by subsection 260(1); (*mécanisme de prêt de valeurs mobilières déterminé*)

(2) Subsection (1) is deemed to have come into force on Budget Day.

89 (1) Section 260 of the Act is amended by adding the following after subsection (1.1):

References — borrower and lender

(1.2) For the purposes of subsections (8), (8.1), (8.2), (8.3), (8.4) and (9.1) and 212(2.1) and (3), in respect of a specified securities lending arrangement,

(a) a reference to a borrower includes a transferee; and

(b) a reference to a lender includes a transferor.

(2) Subsection 260(8) of the Act is replaced by the following:

Non-resident withholding tax

(8) For the purpose of Part XIII, any amount paid or credited under a securities lending arrangement or a specified securities lending arrangement by or on behalf of the borrower to the lender

(a) as an SLA compensation payment in respect of a security that is not a qualified trust unit, is deemed

(i) to the extent of the amount of the interest paid in respect of the security, to be a payment made by the borrower to the lender of interest, and

(ii) to the extent of the amount of the dividend paid in respect of the security, to be a payment made by the borrower to the lender of a dividend payable on the security;

(b) as an SLA compensation payment in respect of a security that is a qualified trust unit, is deemed, to the extent of the amount of the underlying payment to which the SLA compensation payment relates, to be an amount paid by the trust and having the same character and composition as the underlying payment; and

(c) as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security is deemed to be a payment of interest made by the borrower to the lender.

(3) The portion of subsection 260(8.1) of the Act before paragraph (a) is replaced by the following:

Deemed fee for borrowed security

(8.1) For the purpose of paragraph (8)(c), if under a securities lending arrangement or a specified securities lending arrangement the borrower has at any time provided the lender with money, either as collateral or consideration for the security, and the borrower does not, under the arrangement, pay or credit a reasonable amount to the lender as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security, the borrower is deemed to have, at the time that an identical or substantially identical security is or can reasonably be expected to be transferred or returned to the lender, paid to the lender under the arrangement an amount as a fee for the use of the security equal to the amount, if any, by which

(4) Subsection 260(8.2) of the Act is replaced by the following:

Effect for tax treaties — interest

(8.2) In applying subparagraph (8)(a)(i), if a securities lending arrangement or specified securities lending arrangement is a fully collateralized arrangement, any SLA compensation payment deemed to be a payment made by the borrower to the lender of interest is deemed for the purposes of any tax treaty to be payable on the security.

(5) Section 260 of the Act is amended by adding the following after subsection (8.2):

Effect for tax treaties — dividend

(8.3) In applying subparagraph (8)(a)(ii), if the security is a share of a class of the capital stock of a corporation resident in Canada (in this subsection referred to as the "Canadian share"), for the purposes of determining the rate of tax that Canada may impose on a dividend because of the dividend article of a tax treaty,

(a) any SLA compensation payment deemed to be a payment made by the borrower to the lender of a dividend is deemed to be paid by the issuer of the Canadian share and not by the borrower;

(b) the lender is deemed to be the beneficial owner of the Canadian share; and

(c) the shares of the capital stock of the issuer owned by the lender are deemed to give it less than 10% of the votes that could be cast at an annual meeting of the shareholders of the issuer and have less than 10% of the fair market value of all of the issued and outstanding shares of the capital stock of the issuer, if

(i) the securities lending arrangement or the specified securities lending arrangement is not a fully collateralized arrangement, and

(ii) the borrower and the lender are not dealing at arm's length.

Idem

(8.4) In applying subparagraph (8)(a)(ii), if the security is a share of a class of the capital stock of a non-resident corporation, for the purposes of determining the rate of tax that Canada may impose on a dividend because of the dividend article of a tax treaty, the shares of the capital stock of the borrower owned by the lender are deemed to give it less than 10% of the votes that could be cast at an annual meeting of the shareholders of the borrower, and the lender is deemed to hold less than 10% of the fair market value of all of the issued and outstanding shares of the capital stock of the borrower if

(a) the securities lending arrangement or the specified securities lending arrangement is not a fully collateralized arrangement; and

(b) the borrower and the lender are not dealing at arm's length.

(6) Subsection 260(9.1) of the Act is replaced by the following:

Non-arm's length compensation payment

(9.1) For the purpose of Part XIII, if the lender under a securities lending arrangement or a specified securities lending arrangement is not dealing at arm's length with either the borrower under the arrangement or the issuer of the security that is transferred or lent under the arrangement, or both, and subsection (8) deems an amount to be a payment of interest by a person to the lender, the lender is deemed, in respect of that payment, not to be dealing at arm's length with that person.

(7) Subsection (1) is deemed to have come into force on Budget Day.

(8) Subsections (2) to (6) apply in respect of amounts paid or credited as SLA compensation payments on or after Budget Day. However, subsections (2) to (6) do not apply in respect of amounts paid or credited as SLA compensation payments on or after Budget Day and before October 2019, if they are pursuant to a written arrangement entered into before Budget Day.

Notice of Ways and Means Motion to amend the Excise Tax Act

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

GST/HST Health Measures

Human Ova and *In Vitro* Embryos

1 (1) Part I of Schedule VI to the *Excise Tax Act* is amended by adding the following after section 5:

6 A supply of an *ovum*, as defined in section 3 of the *Assisted Human Reproduction Act*.

(2) Subsection (1) is deemed to have come into force on the day after Budget Day.

2 (1) Schedule VII to the Act is amended by adding the following after section 12:

13 *In vitro embryos*, as defined in section 3 of the *Assisted Human Reproduction Act*.

(2) Subsection (1) is deemed to have come into force on the day after Budget Day.

3 (1) Part I of Schedule X to the Act is amended by adding the following after section 26:

27 *In vitro embryos*, as defined in section 3 of the *Assisted Human Reproduction Act*.

(2) Subsection (1) is deemed to have come into force on the day after Budget Day.

Foot Care Devices Supplied on the Order of a Podiatrist or Chiropodist

4 (1) Paragraphs (a) and (b) of the definition *specified professional* in section 1 of Part II of Schedule VI to the Act are replaced by the following:

(a) in respect of a supply included in any of sections 23, 24.1 and 35,

(i) a person that is entitled under the laws of a province to practise the profession of medicine, physiotherapy, occupational therapy, chiropody or podiatry, or

(ii) a registered nurse, and

(b) in respect of any other supply,

(i) a person that is entitled under the laws of a province to practise the profession of medicine, physiotherapy or occupational therapy, or

(ii) a registered nurse.

(2) Subsection (1) applies to any supply made after Budget Day.

Multidisciplinary Health Care Services

5 (1) Part II of Schedule V to the Act is amended by adding the following after section 7.3:

7.4 A supply of a service if all or substantially all of the consideration for the supply is reasonably attributable to two or more particular services, each of which meets the following conditions:

(a) the particular service is rendered in the course of making the supply; and

(b) a supply of the particular service would be a supply included in any of sections 5 to 7.3, if the particular service were supplied separately.

(2) Subsection (1) applies to any supply made after Budget Day.

Business Investment in Zero-Emission Vehicles

6 (1) The definition *passenger vehicle* in subsection 123(1) of the Act is replaced by the following:

passenger vehicle means a *passenger vehicle* or a *zero-emission passenger vehicle*, as those terms are defined in subsection 248(1) of the *Income Tax Act*; (*voiture de tourisme*)

(2) Subsection (1) is deemed to have come into force on Budget Day.

7 (1) The portion of the description of A in paragraph 201(b) of the French version of the Act before subparagraph (i) is replaced by the following:

A représente la taxe qui serait payable par lui relativement à la voiture s'il l'avait acquise à l'endroit ci-après au moment donné pour une contrepartie égale au montant qui serait, selon celui des alinéas 13(7)g) à i) de la *Loi de l'impôt sur le revenu* qui est applicable relativement à la voiture, réputé être, pour l'application de l'article 13 de cette loi, le coût en capital pour un contribuable d'une voiture de tourisme à laquelle l'alinéa en cause s'applique s'il n'était pas tenu compte de l'élément B des formules figurant à l'alinéa 7307(1)b) et au paragraphe 7307(1.1) du *Règlement de l'impôt sur le revenu* :

(2) The portion of the description of A in paragraph 201(b) of the English version of the Act after subparagraph (ii) is replaced by the following:

for consideration equal to the amount that would, under whichever of paragraphs 13(7)(g) to (i) of the *Income Tax Act* is applicable in respect of the vehicle, be deemed to be, for the purposes of section 13 of that Act, the capital cost to a taxpayer of a passenger vehicle in respect of which that paragraph applies if the formulae in paragraph 7307(1)(b) and subsection 7307(1.1) of the *Income Tax Regulations* were read without reference to the description of B,

(3) Subsections (1) and (2) apply to any passenger vehicle that is acquired, imported or brought into a participating province on or after Budget Day.

8 (1) Subsection 202(1) of the Act is replaced by the following:

Improvement to passenger vehicle

202 (1) If the consideration paid or payable by a registrant for an improvement to a passenger vehicle of the registrant increases the cost to the registrant of the vehicle to an amount that exceeds the amount that would, under whichever of paragraphs 13(7)(g) to (i) of the *Income Tax Act* is applicable in respect of the vehicle, be deemed to be, for the purposes of section 13 of that Act, the capital cost to a taxpayer of a passenger vehicle in respect of which that paragraph applies if the formulae in paragraph 7307(1)(b) and subsection 7307(1.1) of the *Income Tax Regulations* were read without reference to the description of B, the tax calculated on that excess shall not be included in determining an input tax credit of the registrant for any reporting period of the registrant.

(2) Subsection (1) applies to any improvement to a passenger vehicle that is acquired, imported or brought into a participating province on or after Budget Day.

9 (1) Subparagraph (b)(ii) of the definition *imported taxable supply* in section 217 of the Act is replaced by the following:

(ii) the recipient is not acquiring the property for consumption, use or supply exclusively in the course of its commercial activities or the property is a passenger vehicle that the recipient is acquiring for use in Canada as capital property in its commercial activities and that has a capital cost to the recipient exceeding the amount deemed under any of paragraphs 13(7)(g) to (i) of the *Income Tax Act* to be the capital cost of the vehicle to the recipient for the purposes of section 13 of that Act;

(2) Subparagraph (b.01)(ii) of the definition *imported taxable supply* in section 217 of the Act is replaced by the following:

(ii) the recipient is not acquiring the property for consumption, use or supply exclusively in the course of its commercial activities or the property is a passenger vehicle that the recipient is acquiring for use in Canada as capital property in its commercial activities and that has a capital cost to the recipient exceeding the amount deemed under any of paragraphs 13(7)(g) to (i) of the *Income Tax Act* to be the capital cost of the vehicle to the recipient for the purposes of section 13 of that Act;

(3) Subparagraph (b.1)(ii) of the definition *imported taxable supply* in section 217 of the Act is replaced by the following:

(ii) the recipient is not acquiring, as the recipient of the taxable supply, the property for consumption, use or supply exclusively in the course of its commercial activities or the property is a passenger vehicle that the recipient is acquiring for use in Canada as capital property in its commercial activities and that has a capital cost to the recipient exceeding the amount deemed under any of paragraphs 13(7)(g) to (i) of the *Income Tax Act* to be the capital cost of the vehicle to the recipient for the purposes of section 13 of that Act;

(4) Subsections (1) to (3) apply in respect of supplies made on or after Budget Day.

10 (1) The portion of subsection 235(1) of the French version of the Act before the formula is replaced by the following:

Taxe nette en cas de location de voiture de tourisme

235 (1) Lorsque la taxe relative aux fournitures d'une voiture de tourisme, effectuées aux termes d'un bail, devient payable par un inscrit, ou est payée par lui sans être devenue payable, au cours de son année d'imposition, et que le total de la contrepartie des fournitures qui serait déductible dans le calcul du revenu de l'inscrit pour l'année pour l'application de la *Loi de l'impôt sur le revenu* s'il était un contribuable aux termes de cette loi et s'il n'était pas tenu compte de l'article 67.3 de cette loi, excède le montant, relatif à cette contrepartie, qui serait déductible dans le calcul du revenu de l'inscrit pour l'année pour l'application de cette loi s'il était un contribuable aux termes de cette loi et s'il n'était pas tenu compte de l'élément B des formules figurant à l'alinéa 7307(1)b), au paragraphe 7307(1.1) et à l'alinéa 7307(3)b) du *Règlement de l'impôt sur le revenu*, le montant obtenu par la formule ci-après est ajouté dans le calcul de la taxe nette de l'inscrit pour la période de déclaration indiquée :

(2) Paragraph 235(1)(b) of the English version of the Act is replaced by the following:

(b) the amount in respect of that consideration that would be deductible in computing the registrant's income for the year for the purposes of the *Income Tax Act*, if the registrant were a taxpayer under that Act and the formulae in paragraph 7307(1)(b), subsection 7307(1.1) and paragraph 7307(3)(b) of the *Income Tax Regulations* were read without reference to the description of B,

(3) Subsections (1) and (2) are deemed to have come into force on Budget Day.

Notice of Ways and Means Motion to amend the Excise Act, 2001

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

Cannabis Taxation

1 (1) The description of B in the definition *dutiable amount* in section 2 of the *Excise Act, 2001* is replaced by the following:

B is the percentage set out in paragraph 2(a) of Schedule 7, and

(2) Paragraphs (a) and (b) of the definition *low-THC cannabis product* in section 2 of the Act are replaced by the following:

(a) consisting entirely of

(i) fresh cannabis,

(ii) dried cannabis, or

(iii) oil that contains anything referred to in item 1 or 3 of Schedule 1 to the *Cannabis Act* and that is in liquid form at a temperature of 22 ± 2°C; and

(b) any part of which does not have a maximum yield of more than 0.3% THC w/w, taking into account the potential to convert THCA into THC, as determined in accordance with the *Cannabis Act*. (*produit du cannabis à faible teneur en THC*)

(3) Section 2 of the Act is amended by adding the following in alphabetical order:

dried cannabis has the same meaning as in subsection 2(1) of the *Cannabis Act*. (*cannabis séché*)

fresh cannabis has the same meaning as in subsection 1(1) of the *Cannabis Regulations*. (*cannabis frais*)

THCA means delta-9-tetrahydrocannabinolic acid. (*ATHC*)

total THC of a cannabis product means the total quantity of THC, in milligrams, that the cannabis product could yield, taking into account the potential to convert THCA into THC, as determined in accordance with the *Cannabis Act*. (*THC total*)

(4) Subsections (1) to (3) come into force, or are deemed to have come into force, on May 1, 2019.

2 (1) Section 172 of the Act is replaced by the following:

Application of interest provisions

172 For greater certainty, if an amendment to this Act, or an amendment or enactment that relates to this Act, comes into force on, or applies as of, a particular day that is before the day on which the amendment or enactment is assented to or promulgated, the provisions of this Act and of the *Customs Act*, as the case may be, that relate to the calculation and payment of interest apply in respect of the amendment or enactment as though it had been assented to or promulgated on the particular day.

(2) Subsection (1) comes into force, or is deemed to have come into force, on May 1, 2019.

3 (1) Paragraph (b) of the description of A in section 233.1 of the Act is replaced by the following:

(b) the amount obtained by multiplying the fair market value, at the time the contravention occurred, of the cannabis products to which the contravention relates by the percentage set out in paragraph 4(a) of Schedule 7, as that paragraph read at that time;

(2) Subsection (1) comes into force, or is deemed to have come into force, on May 1, 2019.

4 (1) Paragraph (b) of the description of A in section 234.1 of the Act is replaced by the following:

(b) the amount obtained by multiplying the fair market value, at the time the contravention occurred, of the cannabis products to which the contravention relates by the percentage set out in paragraph 4(a) of Schedule 7, as that paragraph read at that time;

(2) Subsection (1) comes into force, or is deemed to have come into force, on May 1, 2019.

5 (1) Subparagraphs 238.1(2)(b)(i) and (ii) of the Act are replaced by the following:

(i) the dollar amount set out in subparagraph 1(a)(i) of Schedule 7,

(ii) if the stamp is in respect of a specified province, three times the dollar amount set out in subparagraph 1(a)(i) of Schedule 7, and

(2) Subsection (1) comes into force, or is deemed to have come into force, on May 1, 2019.

6 (1) Sections 1 to 4 of Schedule 7 to the Act are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.25 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.075 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.25 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.25 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0025 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 2.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 2.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 2.5%; and

(b) in any other case, 0%.

(2) Subsection (1) comes into force, or is deemed to have come into force, on May 1, 2019 except that for the purpose of determining the amount of duty imposed on or after that day under subsection 158.19(2) of the Act on any cannabis product that is packaged before that day, section 2 of Schedule 7 to the Act is to be read as it did on April 30, 2019.

Draft Amendments to Various Regulations

Draft Amendments to Various Regulations

Business Investment in Zero-Emission Vehicles

Streamlined Accounting (GST/HST) Regulations

1 (1) The portion of subsection 21.3(4) of the *Streamlined Accounting (GST/HST) Regulations* before paragraph (a) is replaced by the following:

(4) For the purposes of this Part, if any of paragraphs 13(7)(g) to (i) of the *Income Tax Act* deems an amount to be the capital cost to a registrant of a passenger vehicle for the purposes of section 13 of that Act, the amount, if any, by which

(2) The description of B in paragraph 21.3(4)(b) of the Regulations is replaced by the following:

B is the amount deemed by any of paragraphs 13(7)(g) to (i) of the *Income Tax Act* to be the capital cost to the registrant of the vehicle for the purposes of section 13 of that Act,

2 Section 1 is deemed to have come into force on Budget Day.

Cannabis Taxation

Draft Excise Duties on Cannabis Regulations

3 Subparagraph 2(b)(i) of the draft *Excise Duties on Cannabis Regulations*, as published by the Minister of Finance on September 17, 2018, is replaced by the following:

(i) that contains a known quantity or concentration of a chemical component of cannabis, such as cannabidiol, cannabidiolic acid, THCA or THC,

4 (1) Subparagraph 3(1)(a)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 1, and

(2) Paragraphs 3(1)(b) and (c) of the draft Regulations are replaced by the following:

(b) in the case of Quebec, the percentage set out in paragraph 2(a) of Schedule 2;

(c) in the case of Nova Scotia, the percentage set out in paragraph 2(a) of Schedule 3;

(3) Subparagraph 3(1)(d)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 4, and

(4) Paragraph 3(1)(e) of the draft Regulations is replaced by the following:

(e) in the case of British Columbia, the percentage set out in paragraph 2(a) of Schedule 5;

(5) Subparagraph 3(1)(f)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 6, and

(6) Subparagraph 3(1)(g)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 7, and

(7) Subparagraph 3(1)(h)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 8, and

(8) Subparagraph 3(1)(i)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 9, and

(9) Paragraphs 3(1)(j) and (k) of the draft Regulations are replaced by the following:

(j) in the case of Yukon, the percentage set out in paragraph 2(a) of Schedule 10;

(k) in the case of the Northwest Territories, the percentage set out in paragraph 2(a) of Schedule 11; and

(10) Subparagraph 3(1)(l)(i) of the draft Regulations is replaced by the following:

(i) the percentage set out in paragraph 2(a) of Schedule 12, and

5 Sections 1 to 4 of Schedule 1 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

6 Sections 1 to 4 of Schedule 2 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

7 Sections 1 to 4 of Schedule 3 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

8 Sections 1 to 4 of Schedule 4 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

9 Sections 1 to 4 of Schedule 5 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

10 Sections 1 to 4 of Schedule 6 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

11 Sections 1 to 4 of Schedule 7 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

12 Sections 1 to 4 of Schedule 8 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

13 Sections 1 to 4 of Schedule 9 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

14 Sections 1 to 4 of Schedule 10 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

15 Sections 1 to 4 of Schedule 11 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

16 Sections 1 to 4 of Schedule 12 to the draft Regulations are replaced by the following:

1 Any cannabis product produced in Canada or imported: the amount equal to

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, the total of

(i) $0.75 per gram of flowering material included in the cannabis product or used in the production of the cannabis product,

(ii) $0.225 per gram of non-flowering material included in the cannabis product or used in the production of the cannabis product,

(iii) $0.75 per viable seed included in the cannabis product or used in the production of the cannabis product, and

(iv) $0.75 per vegetative cannabis plant included in the cannabis product or used in the production of the cannabis product; and

(b) in any other case, $0.0075 per milligram of the total THC of the cannabis product.

2 Any cannabis product produced in Canada: the amount obtained by multiplying the dutiable amount for the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

3 Any imported cannabis product: the amount obtained by multiplying the value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

4 Any cannabis product taken for use or unaccounted for: the amount obtained by multiplying the fair market value of the cannabis product by

(a) in the case of dried cannabis, fresh cannabis, cannabis plants and cannabis plant seeds, 7.5%; and

(b) in any other case, 0%.

17 Sections 3 to 16 come into force, or are deemed to have come into force, on May 1, 2019 except that in applying subsection 5(2) of the draft Regulations for the purpose of determining the amount of duty imposed on or after that day under subsection 158.2(1) of the *Excise Act, 2001* on any cannabis product that is packaged before that day, Schedules 1 to 12 of the draft Regulations are to be read as they did on April 30, 2019.